

STRIKING BAATIL

"In reality, We (Allah) strike baatil (falsehood) with the Haq. It then smashes out the brains of baatil. And, lo, it (baatil) suddenly disappears."
(Qur'aan)

Al - Haq

BULLETIN No. 24

THE BAND OF HAQ

"There will ever remain a band from my Ummah fighting on the Haq until the Day of Qiyaamah. Those who oppose them and those who do not aid them, will not be able to harm them." Hadith

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MPL STRATEGIES OF DECEPTION

In the desperate bid to get the so-called Muslim Personal Law (MPL) bill accepted by the government, the MPL clique is resorting to a variety of deceptive tricks to convince Muslims that this iniquitous Bill of Kufr has Islamic validity and that it complies with the Shariah

Both aforementioned claims are, not only at variance with the truth, but in diametric contradiction of the Haqq (Truth). However, for some design best known to the MPL traders, the need to get MPL accepted is 'imperative', hence they have stooped to groveling right at the bottom of the barrel, licking the dregs of falsehood and perpetrating downright falsehood in the insane attempt to convince ordinary Muslims to throw in their support for a measure which initiates the process of digging the foundations of Islam.

MODERNIST

Sight should no be lost of the irrefutable truth that this whole kufr saga is being steered by modernists who have no true relationship with Islam. The sole molvi serving with the modernists has managed to hoodwink some short-sighted molvis to offer their support for the glaringly un-Islamic and anti-Islamic MPL proposal. It is our fervent dua that Allah Ta'ala guides those Ulama who have fallen into the MPL snare. Their short-sightedness and superficial examination of the MPL Bill of Kufr has misled them into believing that there is goodness in this evil proposal

Muslims should not allow themselves to be beguiled by downright modernists who, under the leadership or under the cloak of the molvi, are endeavouring to sell MPL rubble from behind a deceptive smokescreen of 'taqleed'.

SENIORS

In spite of the modernists being avowed anti-Taqleed, anti-Math-hab proponents, they are advocating by deception acceptance of the Bill of Kufr on the basis of 'taqleed' of such of our Akaabir (Senior) Ulama who are among the staunchest and most uncompromising Muqallideen of the Hanafi Math-hab.

Quasi-scholars of Islam whose outstanding feature is deficiency in the Knowledge of the Shariah, and who labour under the self-deception of being 'mujtahids', and who consider themselves qualified to extract masaa'il from other Math-habs in the nefarious bid of selling MPL to the Muslim community, are now descending to the very low ebb

of trying to convince us of MPL 'validity' by citing the names of some of our Akaabir Ulama and Mashaaikh.

Since they are bereft of rational argument, and since they have utterly and miserably failed to answer even a single of the numerous objections which a number of Ulama have posed to them, the MPL clique has deemed it expedient to employ the stratagem of 'taqleed'. Perhaps the names of the Akaabireen will awe and beat into silence the objections of the anti-MPL Ulama-e-Haqq. Or so the MPL clique wishes.

The current exercise in MPL quarters is to cite the names of some senior Ulama who are purported to have been MPL supporters in India. The stupid notion in these quarters is that the Ulama-e-Haqq here in South Africa will bow their heads in submission and accept the rot of the MPL Bill of Kufr when they see the names of some illustrious Ulama being displayed to them.

Let these anti-Taqleed, anti-Math-hab MPL crowd understand well that we are Muqallideen of the Aimmah-e-Mujtahideen and subscribers to the Immutable Shariah which has been transmitted to us down the centuries by way of reliable and authentic narration. Names will not alter the position. Regardless of who was associated with MPL in India, the present Bill of Kufr is rejected on the basis of irrefutable Shar'i dalail—Proofs which the MPL clique has miserably failed to counter. And, the reason for them ignoring the arguments of the Ulama opposed to MPL is nothing other than their total inability to respond. They lack in entirety in rational and logical argument, hence they present their stance of silence and where they are able, they display emotional outpourings.

People who consider themselves qualified to pick and choose at random from the views of the different Math-habs and to in fact reinterpret the Qur'aan and Hadith, are now stooping to the level of citing the names of Hadhrat Maulana Ashraf Ali Thaanvi (rahmatullah alayh), Hadhrat Qaari Tayyab (rahmatullah alayh) and Mufti Taqi Uthmaani Saheb. A feverish attempt is now taking place to convey the idea that the senior Ulama are all pro-MPL and that they had advocated MPL in India, hence it is 'logical' and 'incumbent' on Muslims in South Africa to accept the

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GAUTENG ULAMA DISSOCIATE

The Tahaffuz-e-Shariat Ulema Council of Gauteng (Transvaal) in a circular widely distributed, states: "The Gauteng Tahaffuz-e-Shariat Ulema Council (Custodians of the Shariah) has been formed by a group of concerned Mashaaikh, Muftis, Aalims and Huffaaz.

This Council publicly and totally dissociates itself from the so-called Muslim Personal Law Bill which has been presented to the Honourable Minister of Justice. The Bill is in conflict with the sacred Shariah that Rasulullah (sallallahu alayhi wasallam) brought to mankind.....

Today it is this Bill that tampers with the Message of Allah. Tomorrow it will be the Qur'aan."

Branding the MPL Bill as a "New Testament", the Gauteng Ulama Council says: "The authors of the 'New Testament' consist of a judge, an advocate, a professor, one Maulana, a politician doctor and two spinsters, Many Ulema are shocked at the composition of this steering committee. They are in the driving seat.

The majority of the Ulema are against the Bill. The minority is either uninformed of the true nature of the Bill or has been misled by those who aspire to be judges, etc. A favorite tactic is to misquote senior Ulema, like Maulana Ashraf Ali Thaanvi (rahmatullah alayh), and this sows confusion." (For the full text of the statement of the Gauteng Ulama Council, write to Tahaffuz-e-Shariat Ulema Council of Gauteng, P.O.Box 546, De Deur 1884, Fax No.016 590 2451.

AL-HEELATUN NAJIZAH

Hadhrat Maulana Ashraf Ali's **Al-Heelatun Naajizah** was not MPL,

whether the Indian or the South African version. It was pure, unadulterated Shariah, devoid of any vestige of baatil and kufr which proliferate in the current MPL bill. Discussing *Al-Heelatun Naajizah* in relation to the MPL exercise during the time of British India, Hadhrat Mufti Muhammad Shafi (rahmatullah alayh), the father of Mufti Taqi Uthmaani Saheb, says:

"....After all the stages (in the law-making process) were traversed and the bill (MPL) was passed (by parliament), then it became apparent that on account of

the opposition of aliens and to appease such Muslims who lacked Knowledge of the Deen, such changes were effected in the (MPL) bill which brought about the inclusion of many things which were in conflict with the Shariah, and the essential conditions of the Shariah were omitted." (Jawaahirul Fiqh, Vol.2)

Hadhrat Maulana Ashraf Ali Thaanvi (rahmatullah alayh) had made an attempt to get the correct and original Shariah passed as law in India. This attempt was by presenting for acceptance *Al-Heelatun Naajizah* via the MPL route. But this attempt failed since the Shariah could not be tolerated by the modernists and the anti-

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MPL STRATEGIES OF DECEPTION

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current MPL Bill of Kufr.

It has become necessary to dispel the false notion which the MPL clique is desperately trying to create by deception. Hakimul Ummat Maulana Ashraf Ali Thaanvi (rahmatullah alayh) never supported any bill of kufr. He never advocated the slightest diversion from the Shariah. He had prepared his famous book, *Al-Heelatun Naajizah*, comprising of the laws of the Shariah regarding marriage, divorce, custody, maintenance and related matters. Hadhrat Thaanvi (rahmatullah alayh) had endeavoured to get *Al-Heelatun Naajizah* accepted and enacted as law in British India. This was not an attempt to get some Bill of Kufr or some alien ideology accepted in the name of Islam. He did not support any proposal or any clause of any piece of proposed legislation which was in conflict with the Shariah.

On the contrary, the current MPL Bill of Kufr in South Africa is cluttered with proposals which are in diametric conflict with the Shariah. It is the heights of perfidy to claim that Hadhrat Thaanvi's attempt to get *Al-Heelatun Naajizah*

enacted as law is support for the current MPL Bill of Kufr. In fact, it never was support for even the Indian version of MPL which had not accepted the Shariah which *Al-Heelatun Naajizah* advocates.

The MPL clique has in an aborted attempt tried to convey the impression in a recent 'UUCSA' statement that Hadhrat Thaanvi (rahmatullah alayh) had supported the MPL exercise in India. But this is a travesty of the truth. None of our Akaabir Ulama had ever supported any diversion from the Shariah.

AL-HEELATUN NAJIZAH

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Islam cliques which abound in the secular law making process.

SECOND ATTEMPT

Hadhrat Thaanvi (rahmatullah alayh) made a second attempt to get the Shariah's laws pertaining to marriage, divorce, etc., accepted by the government. He therefore instructed Hadhrat Mufti Muhammad Shafi (rahmatullah alayh) to present another draft in which there was no conflict with the Shariah. According to Hadhrat Mufti Muhammad Shafi, this attempt too failed. It was not accepted by parliament.

For the sake of getting some concocted MPL passed as law in the name of Islam, Hadhrat Thaanvi (rahmatullah alayh) did not effect changes to the Shariah as the South African MPL clique is guilty of. The draft which Hadhrat Thaanvi (rahmatullah alayh) and Hadhrat Mufti Muhammad Shafi (rahmatullah alayh) prepared was rejected because it was 100% compliant with the original Shariah of the Qur'aan and Sunnah.

Even 60 years ago when immorality was not yet an acceptable norm, and when Islamic orthodoxy was still

a dominant force in British India, a fully Shar'i compliant bill was unacceptable. How is it possible to gain acceptance for a 100% Shar'i compliant bill today in a country governed by a constitution which bestows the hallow of honour and respectability to abortion, immorality, prostitution, homosexuality, etc.? It is thus pure deception for the MPL crowd to convey to the Muslim community that its MPL bill satisfies the Shariah. Kufr can never find accommodation in the Shariah. The bill has therefore been aptly named 'Bill of Kufr'.

This explanation is adequate to rebut the false claim that Hadhrat Maulana Ashraf Ali Thaanvi (rahmatullah alayh) advocated support for any proposal which is in conflict with the Shariah.

ENCOURAGING

An encouraging feature of the anti-MPL movement is the understanding of the issue and the un-Islamic direction of the MPL Bill which many secular lawyers who are laymen in terms of Islamic Knowledge, have displayed. In discussion with such lawyers by us

and others, they have voiced themselves in opposition to this iniquitous Bill of Kufr. They have understood the legal incongruencies of the Bill and the conflict with the Shariah. May Allah Ta'ala bestow to them greater taufeeq to incline more to the Deen.

HADHRAT MASIHULLAH'S OPPOSITION

Hadhrat Maulana Masihullah (rahmatullah alayh), the senior Khalifah of Hakimul Ummat Maulana Ashraf Ali Thaanvi (rahmatullah alayh) is well-known for steering away from controversies. He led a life of seclusion. However, when he studied the MPL bill which the then MPL committee had sent to him, he perceived the corruption and the dangers of this exercise.

Hadhrat Masihullah's far-sightedness and his understanding of the dangers of the MPL exercise constrained him to establish a Committee of three Muftis who functioned under his supervision to prepare a response and a refutation of the MPL exercise. The treatise, *The Corruptions of the Re-interpretation of the Classical Fiqh. Insha'Allah*, this book will soon be translated into English and published for the benefit of the Muslim community.

This treatise is a real eye-opener for those sincere Muslims who have been misled by the MPL

clique. In his book Hadhrat Masihullah (rahmatullah alayh) lists and discusses the evils, corruption and danger of the MPL proposal. We, in South Africa are today confronted by an identical problem

INDIA MPL

In India, Hadhrat Mufti Nizaamuddin A'zami was the secretary of the Muslim Personal Law Board (MPLB). Hadhrat Maulana Ali Miah was the president, and Maulana Mannatullah Rahmaani was the general secretary. The India MPLB had sent its draft bill to Hadhrat Maulana Masihullah (rahmatullah alayh) for his comments or for what the South African MPL crowd calls 'input'. (This term has attained silly proportions and it is inadvisable for Ulama to use it). Hadhrat Masihullah's detailed response will, Insha'Allah be published in book form. Here we shall reproduce some of his comments as well as the comments of other senior Ulama of India.

In his covering letter, Maulana

Mannatullah Rahmaani had argued in favour of adopting masaa'il from other Math-habs. This exercise is called *Udool Anil Maslak (Diversion from the Math-hab)*. In order to accommodate the modernists and the westernists, Maulana Mannatullah Rahmaani too had felt the need to appease their appetites. This, he attempted to do by committing the blunder of baselessly picking and choosing from other Math-habs. Commenting on this unlawful exercise, Hadhrat Maulana Masihullah (rahmatullah alayh) said: "In response I say that the basis which you have presented for *Udool Anil Maslak* is incorrect according to the *Jamhur Ummah*. Since the very basis is not correct, how can the structure raised on that basis be correct? The structure raised on a corrupt basis is also corrupt.

The Honourable Fuqaha have based the validity of Udool Anil Maslak on Dhuroorah Shadeedah -Waaqiah Daaimah.....In the same way, Hadhrat Hakimul Um-

mat (rahmatullah alayh) made the very same averment in Al-Heelatun Naajizah. This is what the honourable Fuqaha have stated with clarity.....The factors which you have stated for diversion from the Maslak are absolutely inadequate.

If the desire for ease (or concession) is made the basis for Udool Anil Maslak (as Maulana Mannatullah Rahmaani had done), then for the present and the future, the consequence will be the undermentioned evils."

Hadhrat Masihullah enumerated and explained 13 evils of the exercise of *Udool Anil Maslak*, the very same exercise which the South African MPL clique is perpetrating. The first evil as stated by Hadhrat Masihullah is:

"Among the aims for which the Muslim Personal Law Board was established, the most important is to safeguard the Shariah. This aim ensures that the Deen is kept safe from every vestige of interpolation (nibbling and gnawing).

When the MPLB itself is now performing the function of altering the Fiqh of the Hanafi Math-hab, then how will you tomorrow be

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HADHRAT MASIHULLAH’S OPPOSITION MISQUOTING

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able to present to the government the contention that the Shariat should not be subjected to any kind of change?.....This act is totally in negation of the aims for which the MPLB was established.

You cannot deny that the Ulama and the Muftis will never agree with you in these masaail and (similar) issues which will later develop.” In his treatise Hadhrat Masihullah explains to Maulana Mannatullah Rahmaani that

the stance and direction of the MPLB are in reality providing support for the liberals, modernists and those who are the protagonists of liberalism in the Shariah. If in accordance with their efforts, this new (reinterpreted Fiqh is accepted by the government as Muslim Personal Law, the consequence Tahleel-e-Haraam (making unlawful things lawful).

THE COURTS

Commenting further, Hadhrat Masihullah (rahmatullah alayh) wrote: “Such courts which are totally ignorant of the Fiqh of Islam and inexperienced (in this field) will decide in terms of the fiqh which you (i.e.Maulana Mannatullah Rahmaani and the MPLB) have formulated. When it is an accepted fact that for a Shar’i verdict the essential need is an expert Aalim Qaadhi, then how can it be accepted that these unqualified courts (secular courts) will decide correctly in terms of this draft legislation?

UDOOL

“It has already been substantiated that Udool Anil Maslak for the sake of ease is not permissible, and here (i.e. in the mas’alah of touching a female with lust), you gentlemen (of the MPLB) have adopted the Shaafti maslak merely for the sake of ease (i.e. satisfying the desires) of people.....

We are amazed that you have considered this issue so simple. How did you manage to think of it so lightly? Without any Dhuroorah, purely for the sake of ease (satisfying desires) have you abandoned the Maslak of the Ahnaaf despite the fact that in this mas’alah as well as in other masaail, our Maslak is well and clearly substantiated in terms of the Qur’aan and Hadith.

MAHR

Rejecting the MPLB’s definition of Mahr (Dowry), Hadhrat Masihullah writes: “This definition of Mahr presented by you is incorrect. Firstly, the reason cited for changing the definition is not accepted. Definitions do not change on account of the mockery of aliens. They should be told with clarity: “Verily, Allah does not feel ashamed of citing the similitude of the mosquito.....”—Qur’aan.

FUQAHA

Like all votaries of reinterpretation have failed to understand the rank and superiority of the illustrious Fuqaha, the MPLB of India too was guilty of this offence —and so is the South African MPL crowd guilty. In response to this attitude of the MPLB, Hadhrat Masihullah (rahmatullah alayh) writes: “To say that the Honourable Fuqaha had opined in conflict with the Qur’aan and Hadith is indeed highly audacious.

We are bereft of words for voicing our surprise and amazement at the attitude of the Ulama-e-Kiraam of this age for saying that this view of the Fuqaha-e-Kiraam is an obstacle for the tableegh of the Deen. Such a person is beyond the confines of Taqleed even if he claims to be a muqallid. Regardless of howmuch ijtihaad one resorts to, in the final analysis one is constrained to seek refuge within the confines of this self-same Taqleed. When there develop such needs and expedencies for which the Fuqaha-e-Kiraam had formulated these masaail on the basis of the Qur’aan and Hadith, then there is no alternative other than to submit to them.”

On another issue, rejecting the MPLB’s exercise of picking and choosing from Math-habs, Hadhrat Masihullah (rahmatullah alayh) states: “Thus, in this matter it is never permissible to adopt the Fatwa of Imaam Shaafti (rahmatullah alayh).” “I am amazed that the venerable writer (referring to Maulana Mannatullaah Rahmaani). His gaze did not go towards this severe obstacle. What an error!”

DISSOCIATION

Dissociating from the MPL exercise and its products of diversion from the Shariah, Hadhrat Masihullah (rahmatullah alayh) concludes his treatise with the following words: “We have read and re-read several times your letter and the draft (MPL) bill in which Udool Anil Maslak was applied. Several Ulama had together studied it. However, even after perusal, reflection and research of the kutub we did not find such a Dhururah Shadeedah Yaqeeniyah Aammah to warrant Udool Anil Maslak—such a need which the Fuqaha-e-Kiraam stipulate as a necessity (for Udool)We are therefore not in agreement with you.” (The aforementioned quotes have been extracted from Hadhrat Masihullah’s anti-MPL treatise. Insha’Allah, the book will soon be translated into

English and published.)

The undermentioned Ulama endorsed the treatise of Hadhrat Masihullah (rahmatullah alayh):

- (1)

Mufti Naseer Ahmad , Daarul Ifta, Madrasah Miftahul Uloom, Jalalabad
- (2)

Maulana Aqeelur Rahmaan, Madrasah Miftaahul Uloom, Jalalabad
- (3)

Mufti Rashid Ahmad, Daarul Ifta, Daarul Uloom Abadiyyah, Mewaat
- (4)

Mufti Abdul Quddus Rumi, Chief Mufti, Daa-iratush Shareeah, Wasiabad
- (5)

Mufti Muzaffar Husain Al-Mazaahiri, Naazim Madrasah Mazaahirul Uloom, Saharanpur
- (6)

Maulana Muhammad Yaameen, Naaib Muhtamim Madrasah Mazaahirul Uloom,

With regard to an MPLB proposal pertaining to nafqah (expenses) for the wife, Maulana Mannatullaah Rahmaani had misquoted from Hadhrat Thaanvi’s book, Al-Heelatun Naajizah, in order to support the incorrect view presented in the draft MPL proposal. In response to this erroneous citation, Hadhrat Masihullah (rahmatullah alayh) wrote: “At this juncture, firstly I have to say that Hadhrat Hakimul Ummat did not include iflaas

(poverty) in ta-annut (recalcitrance)The full elaboration of this mas’alah is in Al-Heelatun Naajizah. In spite of this, how could you gentlemen have written that Hadhrat Thaanvi had stated this in Al-Heelatun Naajizah? This statement of yours is totally improper.....It is not so, as I have explained. Therefore, kindly rectify this reference (cited by you) so that the misunderstanding may be dispelled.”

CONCLUSIONS

MPL molvis are swift in forming conclusions which are in flagrant conflict with the Qur’aan and Hadith. Whether it be India MPL or South African MPL, the blunders appear to be the same because the S.A.MPL molvis have simply cribbed from the MPL drafts of the Indian MPL maulanas. Regarding one such erroneous conclusion of Maulana Mannatullah, Hadhrat Masihullah (rahmatullah alayh) writes: “I am lost in bewilderment. How can you, a man who has his gaze on the Kitaab and Sunnah write: ‘For these types of views there is no proof in the Kitaab and Sunnah...?..”

TALFEEQ

Hadhrat Masihullah further commenting on the exercise of selecting from Math-habs, states: “It is an acknowledged rule that for the permissibility of Udool Anil Maslak (diversion from the Math-hab), the imperative need is Dhuroorah Shadeedah (a dire need which makes life difficult). However, no mention whatsoever is made in the (MPLB’s) draft of this essential condition. This (attitude) opens the avenue for talfeeq (mixing up Math-habs) which is haraam by the Ijma’ of the Ummah. This is a matter of principle.”

- (7)

Saharanpur Maulana Waqaar Ali, Madrasah Mazaahirul Uloom, Saharanpur
- (8)

Maulana Nazr Tauheed Al-Mazaahiri, Muhtamim and Mufti Madrasah Rashidul Uloom, Chatra-Bahaar
- (9)

Mufti Zul Fiqaar Ali, Madrasah Misbaahuz Zafar, Muradabad
- (10)

Mufti Nizaamuddin A’zami, Chief Mufti of Daarul Uloom Deoband
- Besides the aforementioned ten Muftis, other Ulama too endorsed Hadhrat Masihullah’s anti-MPL treatise and expressed their full agreement with his views on this issue.

COMMENTS OF THE CHIEF MUFTI OF DEOBAND

Hadhrat Mufti Nizaamuddin A'zami, the Chief Mufti of Deoband and Secretary of the Muslim Personal Law Board, after studying the treatise of Hadhrat Masihullah (rahmatullah alayh), commented as follows:

"In regard to this matter, I too was deceived. As a result I was in deception. Now I am satisfied with this research (referring to Hadhrat Masihullah's anti-MPL treatise).

I know these people (the MPL Molvis) from my

student days. Instead of being the trained persons of their Buzrugs (senior Ulama and Mashaaikh), they are awed and influenced by (political) leaders and lawyers."

This is the self-same mental disease from which the MPL molvis in South Africa are suffering.

Commenting on the contents of the treatise, Hadhrat Mufti Nizaamuddin Saheb wrote:

"All praises are due to Allah! The Hadhraat (the authors of the treatise) - May their holiness be increased- have made a thorough research by elaborate investigation and great effort. Their research is worthy of attention. The research is perfect, comprehensive and fully substantiated with proofs. Allah Ta'ala will grant the reward for it by His special grace and kindness. May Allah Ta'ala bestow to all, correct knowledge and correct insight, and may He save all from every trial and fitnah."

HADHRAT WASIULLAH

Among the senior Khulafa of Hadhrat Maulana Ashraf Ali Thaarvi (rahmatullah alayh) is Hadhrat Maulana Shah Wasiullah (rahmatullah alayh). He commented as follows on the letter of Maulana Mannatullah Rahmaani and the MPL draft bill:

"The votaries of reinterpretation of the Qadeem (Classical) Fiqh are the victims of misunderstanding and confusion. They consider Dhururat-e-Shar'i and customary ease both to be such a need which render one helpless (idhtiraar) whereas there is a difference between Shar'i Dhururah and customary ease. On the basis of only ease, the principle: 'Dhururaat legalize prohibitions', does not apply."

POISONOUS

In the introduction of Hadhrat Masihullah's treatise, Mufti Abdul Quddus Rumi, cites the following comments of Hadhrat Mufti Nizaamuddin A'zami of Deoband —comments which he had made on the series of *Fiqh seminars* arranged by MPLB:

"These are not seminars. Rather, they are 'simmi anaar' (i.e. poisonous pomegranates). People

will not be safe from the poisonous effects of these 'seminars'."

In the same way there is no safety and no goodness in the haraam workshop gatherings of the South African MPL clique. The admixture and intermingling of men and women of a variety of persuasions and haraam dress make these MPL workshop meetings haraam.

THE COMMENTS OF MUFTI ABDUL QUDDUS RUMI

Hadhrat Mufti Abdul Quddus Rumi, the Mufti of Agra and Chief Mufti of Daairatush Shareeah, Wasiabad, India, was a member of the Muslim Personal Law Board of India. He wrote an introduction to the anti-MPL treatise of Hadhrat Masihullah (rahmatullah alayh). Some of his comments appear hereunder:

At a MPLB meeting held at either Bangalore or Madras, a professor of the Muslim University of Aligarh had expressed the need to re-interpret the Shariah to appease aliens and the government. Commenting on this idea, Hadhrat Mufti Abdul Quddus Rumi, writes:

"This (ideology of the professor) is the fundamental juncture of the 27 year journey of the All-India Muslim Personal Law Board at which the engine of the train heading for the Ka'bah turned direction and headed for Kaashi and Mithra, and immediately it began to climb the steep gradient which it was unable to climb."

Although the Muslim Personal Law Board in India was ostensibly established to guard the Shariah and to ensure that Islam's laws pertaining to marriage, divorce, custody, etc. are fully vindicated and administered to Muslims, it had not adhered to this noble agenda. On the contrary, it drastically shifted its position and headed in an opposite direction—the direction towards kufr, hence the diversion from the 'Ka'bah' towards "Kaashi and Mithra."

When he realized the misdirection of the MPLB, Mufti Abdul Quddus Rumi said:

"No reply was forthcoming from Hadhrat Maulana Mannatullah Rahmaani Saheb. Seeing this attitude, I was constrained to conclude that my position as a member of the Board is not appropriate. A group of people with a special (sinister) outlook dominates the Board. Any conflicting opinion is simply dumped into the trash can.....In the circumstances I do not consider my membership of the Board lawful. I am constrained to see safety in only resigning from the MPLB."

QAARI TAYYAB SAHEB

Hadhrat Hakimul Islam Maulana Qaari Muhammad Tayyab (rahmatullah alayh) wrote to Hadhrat Mufti Muhammad Shafi (rahmatullah alayh):

"Generally the modern-thinking Ulama are awed by the prevailing conditions, hence they regard these expediencies as the basis and the masaa'il (of the Shariah) subservient (to the developments) whereas the converse should be the case. The Maslak and Masaail constitute the basis. Then the expediencies will be considered while observing the limit of protecting the

Maslak.....Exceptions (to the rule) are not the law and cannot be given the status of a principle."

In this comment Hadhrat Qaari Tayyab (rahmatullah alayh) is saying that a concession applied to an expedient on account of real and dire need (*Dhururah Shadeedah*) does not constitute a principle and a permanent permissibility, e.g. eating pork at the time of starvation when life is threatened. The concession to consume haraam when this *Dhururah Shadeedah* occurs does not render consumption of pork ha-

laal for everyone and for all time.

Udool Anil Maslak, i.e. to divert from one's Math-hab and select a concessionary mas'alah from another Math-hab is in this category of exceptional cases. Such *Diversion* is permissible only when there is *Dhururah Shadeedah*. In the context of MPL, there is no such *Dhururah* to warrant *Udool Anil Maslak* which in normal circumstances is **haraam**.

HADHRAT MUFTI MUHAMMAD SHAFI AND MPL

Hadhrat Mufti Muhammad Shafi, the then Grand Mufti of Pakistan and the senior Khalifah of Hadhrat Maulana Ashraf Ali Thanvi (rahmatullah), and father of Hadhrat Mufti Taqi Uthmaani Saheb, was associated with MPL for decades in both India and Pakistan. His experiences and comments on the futile and harmful MPL exercise should be a sufficient eye-opener for sincere Ulama who have been misled by deviates and tricked into the snares of the modernist molvis who are over-awed by the modernist clique.

It has already been explained elsewhere in these pages that Hadhrat Thaavi (rahmatullah alayh) had commissioned Mufti Muhammad Shafi to draft and submit an MPL Proposal along the lines of his famous book, *Al-Heelaton*

Naajizah. This effort was undertaken prior to the partitioning of the Indo-Pak subcontinent. But, these efforts proved fruitless. The unadulterated Shariah presented by these senior Ulama was unacceptable to the modernists and the kuffaar government.

In India, Hadhrat Thaavi, Hadhrat Mufti Shafi and other Akaabir Ulama had failed to make headway with MPL for the simple reason that these Akaabir Ulama were not prepared to adulterate, interpolate, and change the Shariah to suit the opinions, designs and plots of the kuffaar and their modernist 'Muslim' serfs. And, the government on the otherhand, was not prepared to accept an unadulterated, pure Shariah.

Since there was no basis for compromise, MPL was a total failure in India, and in fact, it is a total failure, loss and spiritual disaster in Pakistan and in every Muslim country which has introduced its own peculiar haraam version of MPL. The variety of MPL rubbish existing in the various Muslim countries have one feature in common — *mutilation and displacement of the Shariah, and the introduction of laws in the name of Islam, which have been designed to appease and soothe the western palate and mental outlook*.

MPL IN PAKISTAN

of these people, either by their own opinion or be-

Describing the course of MPL in Pakistan, Hadhrat Mufti Muhammad Shafi (rahmatullah alayh) writes in his kitaab, *Jawaahirul Fiqh*:

"After the inauguration of Pakistan our government instituted the first Law Commission of which I was made a member. When the issue of family masaa'il was presented, I made such proposals which were the correct solutions for the difficulties of women and protection against injustices. Such proposals could be implemented within the scope of the Qur'aan and Sunnah. However, this commission was unable to continue with its functioning and these masaa'il were left in abeyance.

Thereafter our government instituted a commission to deal with these family questions. Alas! The fact that the greater part of such issues pertains purely to religion and the Shariah, was ignored. The proposals of only such persons are acceptable on whose expert Deeni knowledge the whole nation has full confidence. However, only one Aalim (Maulana Ihtishaamul Haq Thaanvi) was included in this commission. This commission circulated a questionnaire throughout the country.

The sinister designs and schemes of the commission were apparent from the questionnaire. Ulama from every persuasion and organization throughout the country had offered very strong opposition to the proposals in which was found the possibility of conflict with the Shariah. Finally, the commission presented its report. The answers and objections of the Ulama of the Deen were in entirety ignored. In fact, the final report was an appeal for promulgation of laws which were in total opposition to the Qur'aan and Sunnah.

The solitary Aalim, Maulana Ihtishaamul Haq Thaanvi, who was serving on this commission, added his detailed note of opposition to the report, which was published.

After publication of the report, Muslims from all persuasions throughout the country, registered their strongest protest. In consequence of these protests, the government shelved the report and adopted silence.

It is not known what design had induced the government during the marshal law era to exhume this buried report. Out of all the laws promulgated by the previous governments, only this (MPL) proposal was deemed

proper for imposition on the Muslim nation inspite of strong countrywide protests. For the sake of imposing this (MPL) proposal on Muslims, the government could not exercise a little patience until the resumption of civilian rule so that this measure could be discussed in parliament.

As far as I am aware, the initiators of this move (to get this MPL imposed on Muslims) were some females (the women's lib mob). They laboured under the notion that the solution for the problems of women is provided in this bill.

When, according to press reports it became apparent that this bill would be made law, 14 prominent Ulama from different organizations assembled in Lahore and criticized the proposed (MPL) bill.... Similarly, more than 40 Ulama from the Frontier Province and 84 Ulama of East Pakistan protested in opposition to the proposed bill.

In view of the importance of the objective and the delicate situation, I diverged from the path of protest and confrontation and entered into a dialogue with the president of the country. I wrote in earnest a letter of advice to him. I briefly pointed out the conflict with the Qur'aan and Sunnah and mentioned that a few proofs of the Qur'aan and Sunnah are presented as examples. Should further clarification be required, this would be forthcoming.

I intentionally wrote this because I had learnt that from the inception of the endeavour to get this bill passed as law, the aid of two types of persons was enlisted. The one group consisted of those liberals and free thinkers who have no consideration for the Qur'aan and Sunnah in dealing with their affairs. Having unfettered themselves from the Qur'aan and Sunnah, the basis on which they desire to structure their laws is their fanciful opinion.

These people have according to their opinions presented harms which they imagine to be in the Shariah, and they have discerned the solution for these (imagined) harms to be this new (MPL) law. In a variety of ways have they confused the minds of the unwary Muslims.

The second group consists of such people who are regarded as Ulama on account of having some knowledge of Arabic (the quasi-molvis). It is the endeavour

of these people, either by their own opinion or because of some worldly motive (wealth and fame), to prepare such a new edition of Islam which will appease western culture, thereby gaining the pleasure of their western masters regardless of the extent of mutilation effected to the Qur'aan and Sunnah. These people had compiled such (erroneous) views pertaining to the Qur'aan and Sunnah, which created substantial confusion in the minds of Muslims lacking in the knowledge of the Deen. By this tactic the masses gain the impression that this (MPL) issue is an issue in which there exists difference of opinion. Some Ulama are for it and others against it.

At the time of writing this (to the president) I had in mind such confusion which may have been created in the minds of the responsible leaders (i.e. the president and others), and which I would clear up when an elaborate explanation is called for.

However, the government gave my letter and the president's response to the press for publication. What I had written regarding the conflict with the Qur'aan and Sunnah was not published. Instead of publishing it, it was considered adequate to say that the ministry concerned would reply.....

I waited in vain several months for a response from the ministry. I then sent a registered letter as a reminder, but no reply was forthcoming. When the minister of law visited Karachi, I raised this issue with him. Again no response was received. The (MPL) bill was then made law.....

Alas! Our law-making brothers look at everything and ponder over everything, but they ignore the best principles and details (Usool and Furoo') of the Qur'aan and Sunnah.

MPL AND POLYGAMY

Commenting on the MPL plot to 'regulate' polygamy, Hadhrat Mufti Muhammad Shafi (rahmatullah alayh), the illustrious father of Mufti Taqi Uthmaani, says in his *Jawaahirul Fiqh*:

"From this it is clear that the actual motive of this proposal (of regulating polygamy) is not to prevent any injustice. But on account of being awed (and influenced) by the culture of aliens, the motive is to brand polygamy as abominable and a crime. Instead of outrightly prohibiting it, such restrictions have been introduced which make it (polygamy) practically prohibited.

Any person who has the slightest knowledge of the history of Islam and the Ambiyaa (alayhimus salaam) will understand that this step (taken by MPL against polygamy) is a flagrant and an insulting attack on Islam. It is furthermore not hidden from any alert person that while polygamy is considered a crime for those opposed to it, zinaa is not regarded as a crime.

It is not a crime to keep limitless women as mistresses, hence to abandon polygamy does not impede any of their desires (of lust for sexual gratification). This is the primary reason why the storm of illegitimate children is day by day multiplying in the whole world besides the lands of Islam.....

Alas! Our law-makers whose minds are influenced by the conceptions of aliens (westerners) and they formulate this type of (evil and haraam) laws do not keep in sight the experiences of these foreigners nor do they derive any lesson from the evil consequences (of adultery and fornication in the wake of the ban on polygamy).

What hope can there be of any reformation of the present (un-Islamic) laws in accordance with the Qur'aan and Sunnah from these people whose minds have become over-awed, in fact poisoned by thinking like the aliens?

Every Muslim is aware of the clear command of the Qur'aan in the matter of polygamy. The relevant aayat grants permission to a Muslim to have up to four wives at one time."

MUFTI TAQI SAHEB

At this juncture it will be appropriate to draw Hadhrat Mufti Taqi Saheb's attention to the aforementioned naseehat and ruling of the Shariah on the issue of polygamy presented by his noble father, Hadhrat Mufti Muhammad Shafi (rahmatullah alayh).

Although Mufti Taqi Saheb had at one stage unequivocally maintained the permissibility of unrestricted

(Continued on page 6)

THE CRIBBING OF THE MPL CLIQUE

The Project Committee responsible for the MPL Bill of Kufr has not produced anything original. The kufr proposals cluttering the current MPL bill submitted to the Minister of Justice for his approval, is a perfect specimen of wholesale cribbing from the MPL kufr bill of Pakistan.

The Ulama-e-Haqq in large numbers had offered strong opposition to the Bill of Kufr which the fussaag or kuffaar government of Pakistan had enacted as law in flagrant and blasphemous disregard for the Qur'aan and Sunnah—the Shariah of Allah Ta'ala. Here in South Africa, the MPL Bill of Kufr is following an almost identical course as the MPL moves of India and Pakistan.

In this regard, the South African Project Committee with its solitary molvi has resorted to cribbing. They have presented a MPL version copied from the Pakistani kufr version. In the attempt to get the Bill of Kufr rammed down the throats of the Muslim community, the Project Committee with its rubber-stamp-molvi front, has adopted the very same tactics which the modernists and liberal enemies of Islam had adopted in Pakistan when the Ulama-e-Haqq voiced their objections and protests. The tactic was and still is silence and to ignore the valid objections. Since, the votaries of the Kufr Bill are in entirety unable of responding on the basis of the Qur'aan and Sunnah, and since they are fully aware of the irrefutable Haqq which the anti-MPL Ulama-e-Haqq are presenting, they know that they have no basis to stand on, hence silence is best.

The Ulama have posed numerous valid questions of Shar'i concern, and many objections have been registered, and clarification sought from those who have assumed upon themselves the vile liability of mutilating and displacing the immutable laws of Allah Ta'ala.

The Ulama-e-Haqq in South Africa are following a similar route of protest and objection as the Ulama-e-Haqq of Pakistan had done. However, there is one lamentable difference in this regard. Many of the South African Ulama who are opposed to the MPL Bill of Kufr have adopted silence for fear of becoming embroiled in controversy. This attitude is truly lamentable. It sends wrong signals to the Muslim public who gain the idea of compliance and support for the Bill of Kufr from the silence of the Ulama. There is an imperative need for the Ulama-e-Haqq to become more vocal and state their case and views unambiguously,

loudly and forcefully so that the MPL molvis are prevented from gaining mileage at the cost of the Muslim public being deceived and hoodwinked into believing that the majority of our Ulama are in support of this dastardly evil instrument fabricated to displace the immutable Shariah of the Qur'aan.

Of recent, we observe that some Ulama have begun to come out in the open on this issue. We urge the entire Ulama Fraternity of the Haqq to become more vociferous and to excise the ambiguity from their obligation of *Amr Bil Ma'roof Nahy Anil Munkar*.

THE ULAMA

The vast majority of the Ulama-e-Haqq of Pakistan had very vociferously and unambiguously proclaimed the baatil of MPL. Those who had been associated with the MPL exercise, did not tolerate the slightest diversion from the Shariah.

Hadhrat Maulana Ihtishaamul Haq Thaanvi (rahmatullah alayh) who was the solitary Aalim of Haqq on the Pakistani version of MPL, had unequivocally stated the Haqq and dissociated from the kufr and baatil of the MPL Commission on which he was serving.

Unlike the solitary molvi who sits on the South African Project Committee, Hadhrat Maulana Ihtishaamul Haq did not crib from kufr sources nor did he consort with the liberals of the commission. His presence on the commission was an attempt to safeguard the Shariah and to keep MPL on the course of the Shariah—an attempt in which he as well as Hadhrat Maulana Ashraf Ali Thaanvi (rahmatullah alayh) in India, had failed.

The preponderance of the modernists and liberal propagators of kufr did not allow these Ulama to guide the affairs of the MPL exercise. Hence, on their own admission participation in MPL was a failure. Nothing good came from it. The products it spawned were nothing but baatil and kufr—rejection of the Qur'aan and Sunnah under guise of kufr reinterpretation.

(Continued from page 5)

MPL AND POLYGAMY

polygamy (of four wives), we have been informed that he has melowered his stance and opted for the modernist view of regulating polygamy. Hadhrat Mufti Shafi (rahmatullah alayh) has stated clearly, and this should be clear to every Muslim, that legal regulation of polygamy is tantamount to the abolition of polygamy.

It is hoped that Hadhrat Mufti Taqi Saheb will reflect and ponder deeply on the *naseehat* of his illustrious father, and keep the Aakhirah and its accountability uppermost in mind, and retract the evil view of the permissibility of regulating polygamy.

THE SAFETY OF THE SECULAR CONSTITUTION

Unlike the difficulty which Pakistani Muslims faced in regard to the MPL Bill of Kufr, Muslims in South Africa enjoy the right of constitutional safety. It is a truly lamentable commentary on the brains of the MPL molvis that the Muslim community has to seek refuge in the secular constitution from their evil so-called Muslim Personal law bill fabricated in the name of Islam and ostensibly for the religious benefit of Muslims.

In Pakistan, Muslims did not and do not have this safety. The kufr is arbitrarily and summarily forced onto them. On the other hand, here in South Africa, the secular constitution safeguards the Deeni rights and requirements of the Muslim community, albeit in a limited sphere, from the intrusion of a measure which constitutionally will prove to be 'legal junk'. Every lawyer who understands his profession, will understand the incongruity of the MPL bill and how this bill constitutes legal junk, good for the dirt bin in this dunya, and befitting for Jahanum in the Aakhirah.

Even if by some hook or crook the Bill of Kufr gets accepted as law, Muslims do have the constitutional assurance that they will not be discriminated against on the basis of creed. They can be assured that the secular constitution, as it stands and reads today, will not allow the imposition of the Bill of Kufr on any Muslim against his will and wishes.

Since the applicability of the Bill of Kufr, should it become law, can be constitutionally only by the volition of Muslims, it being legal junk should be self-evident. If Muslims opt for the Shariah volitionally and submit to its Ahkaam, without the need for any coercive imposition from the secular authorities, the need for any religious bill in this sphere is ludicrous and laughable.

A MASSIVE DECEPTION

The MPL clique is guilty of perpetrating a massive deception to mislead and deceive Muslims into believing that the Akaabir Ulama of India and Pakistan were all in support of MPL exercises. Should we momentarily accept this falsehood for the sake of denuding the MPL clique of its subterfuge, it should be borne in mind that in the very first instance, the situation in South Africa differs from the circumstances prevalent in India and Pakistan. What is or is supposed to be good for the Muslim communities labouring under the yoke of harsh and anti-Islam secularism in Pakistan and India, is not necessarily applicable to the Muslim commu-

nity of South Africa.

THE CONSTITUTION

The secular constitution of Pakistan and of all Muslim countries in general, do not safeguard the Deeni rights of the Muslim communities of those lands. On the other hand, the secular constitution of South Africa, comparatively provides considerable safeguards for the religious rights and practices of Muslims living in this country. So while, a version of MPL was deemed necessary in Pakistan, India and elsewhere for the protection of the Deeni rights and aspirations of concerned Muslims, this measure which proved fruitless and an abject failure in those lands, is totally unnecessary for the Muslim

sequence of the desires and efforts of the liberals and modernists

THEIR ATTEMPTS

The MPL effort had been initiated in India and Pakistan to guard the Shariah from interpolation and mutilation, not on the contrary to displace it. Thus, we find that some Akaabir Ulama of those lands, inspite of their association with MPL, distanced themselves from the baatil and kufr which were introduced in consequence of the desires and efforts of the liberals and modernists who dominated this exercise. The statements of the Akaabireen appearing in these pages of *Al-Haq*, are adequate testimony for this truth.

MPL'S PRIMARY AIM

“The most important aim of the Muslim Personal Law Board is Tahaffuz-e-Shariat (Safeguarding the Shariat) which includes protecting the Deen from every kind of interpolation. However, now the Board itself is executing the task of altering the Hanafi Fiqh.....”

(Hadrhat Muhammad Masihullah — rahmatullah alayh— a comment in response to the baatil MPL draft bill submitted by Maulana Mannatullah Rahmaani, the then General Secretary of the MPLB of India)

MUFTI TAQI SAHEB'S MPL ADVICE

It has been brought to our attention that Hadrhat Mufti Taqi Uthmaani Saheb has entered the MPL fray of South Africa. In a ten page Urdu letter to someone (unknown to us), he explains his viewpoint on the MPL controversy in South Africa, and advises that there be dialogue between the pro and anti-MPL Ulama.

In his explanation he proffers the sagacious advice of withdrawing the MPL bill and that dialogue of the Ulama takes place to decide the actual fate of the MPL bill. While the pro-MPL molvis will cite Mufti Taqi Saheb in their support, they will, true to their form, conceal his sagacious advice. If the MPL clique has adopted the taqleed of Hadrhat Mufti Taqi Saheb, then they have neither logical nor moral reason for dumping his sagacious advice and rejecting his call to withdraw the MPL bill, or more appropriately the Bill of Kufr.

Although Hadrhat Mufti Taqi Saheb does not agree with the claim that the MPL bill is a Bill of Kufr, he nevertheless, does call for its withdrawal and meaningful dialogue with sincerity. Whoever among the MPL crowd is respon-

sible for dispatching copies of Mufti Taqi's letter to the anti-MPL Ulama, has for some sinister reason omitted to include the first page. Did Mufti Taqi Saheb perhaps castigate the MPL molvis for their irresponsible conduct and haste in having submitted their Bill of Kufr to the authorities? Or is there another similar design.

It is our intention to analyze Hadrhat Mufti Taqi Saheb's viewpoint and advice in another special edition of *Al-Haq*, Insha'Allah. The need for this analysis arises in the wake of expected deception and mis-manipulation of Mufti Taqi's letter. The MPL clique is now notorious for perpetration of deception with the design of misleading the Muslim community.

If the MPL molvis or the quasi-molvi have any respect for honesty, they should please fax us page one of Mufti Taqi's letter as well to enable us to do a better job of our forthcoming analysis, Insha'Allah. Surely, page one cannot be so secretive as to warrant concealment from the Ulama-e-Haq!

To mislead the Muslim public, the MPL clique deceptively employs the names of senior Ulama. Although they are not the followers of the Ulama, in fact they are inimical towards them, they do understand that the Muslim masses by the fadhl of Allah Ta'ala, by far and large, still refer to the Ulama-e-Haqq for directives in their lives notwithstanding their deficiencies in practical Islamic life. The MPL clique is aware that Muslims do not follow 'deeni' directives issued by judges and secular personnel, hence they deem it imperative to create the smokescreen of senior Ulama supporting the Bill of Kufr. But this gimmick no longer enjoys credibility among Muslims who have by this time been apprized of the corruption and dangers of the MPL kufr exercise which Hadrhat Masihullah (rahmatullah alayh) elaborately explains in his treatise.

We have made it abundantly clear in these pages that the Akaabir Ulama of India and Pakistan vehemently opposed MPL.

Even those Ulama who were initially associated with the MPL exercise thoroughly exposed the evils and corruptions of the bill of kufr. They did not conceal the sinister designs and the mutilation of the Shariah which MPL perpetrates.

In diametric opposition to this stand of the Ulama-e-Haqq in India and Pakistan, even those who had participated in this exercise, we find the South African MPL molvis who are a small minority, from the very inception embarking on moves to displace the Shariah. Whereas the India and Pakistan MPL Ulama had set out from the very beginning to protect the Shariah and to endeavour to have the original Shariah implemented as law, without the slightest semblance of change and reinterpretation, the South African MPL clique has laboured desperately and feverishly to hoodwink the community with a proposal which they dubbed compliant with the Shariah, while it was cluttered with baatil and kufr—such kufr which expels its votaries from the fold of Islam. In terms of the Qur'aanic declaration, the MPL molvis should heed what Allah Ta'ala says: *“They who do not decide according to what Allah has revealed, verily they are the kaqfiroon.”*

At every juncture where the India and Pakistan version of MPL departed from the direction of the Ka'bah, the Ulama over there raised their voices loudly and clearly in opposition to denounce the measures of kufr which came into conflict with the Qur'aan and Sunnah. The attempt to reinterpret the Shariah, according to Hadrhat Mufti Muhammad Shafi (rahmatullah alayh), was the effort of liberal 'ulama' over-awed by western civilization. Their superficial Deeni and Arabic knowledge only induced greater audacity in them in the same way as the quasi-molvi of the MPL clique is peddling away aimless-

THEIR GIMMICK

ly in a valley of self-deception seeing mirages of glory and fame for himself if his MPL pet gets enacted as law. About these liberal 'molvis', Hadrhat Nizaamuddin A'zami, the Chief Mufti of Daarul Uloom Deoband and Secretary of the MPLB, commented: *“I know these people from my student days. Instead of being the trained products of their Buzrugs, they are over-awed by the worldly leaders and lawyers.”*

The MPL clique in South Africa is manipulating the names of senior Ulama out of context, baselessly and falsely. There intellectual and moral bankruptcy is indeed appalling. To stoop to the extremely base level of mismanipulating the names of the Akaabir Ulama is most despicable. For instance, they claim that Hakimul Ummat Maulana Ashraf Ali Thaavi (rahmatullah alayh) was in support of the adoption of the Indian MPL bill by the parliament of that country. Yet this is a blatant lie. Hadrhat Hakimul Ummat had made endeavours to get his kitaab, *Al-Heelatan Naqizah* enacted as law, not the kufr MPL bill which the enemies of the Deen were desperately trying to get accepted as law.

Then they cite Hadrhat Qaari Tayyab (rahmatullah alayh) as a supporter of MPL. It is likewise misleading to associate Hadrhat Qari Tayyab's name with any kufr measure presented in the name of MPL. He was one of the Ulama-e-Haqq whose obligation it was to protect the originality and purity of the Shariah. At no stage did Hadrhat Qari Tayyab (rahmatullah alayh) advocate or introduce any proposals which were in conflict with the Shariah. Never did he attempt to create a hybrid conception of Islam subservient to the ideology of the west and to appease the modernists and liberals.

Who are the other Akaabir whom they will dare cite as being MPL proponents? Let them state the names of these Akaabir and there shall be no indolence in the presentation of a fitting response in negation of their falsehood. The names of the liberal molvis who advocate *Udool Anil Maslak* are of no significance and not worthy of consideration.

They further seek to hide behind the skirt of Hadrhat Mufti Taqi Saheb. But here too they have blundered into a quagmire from which they find it impossible to extricate themselves. Firstly, Mufti Taqi Saheb to this day has not supported the current version of the MPL bill which is a Bill of Kufr. He has merely offered guidelines and has made ambiguous suggestions. Mufti Taqi Saheb has merely voiced his support for MPL in principle, not for the current MPL Bill of Kufr which the misguided and doomed clique has submitted to the Minister of Justice.

Mufti Taqi Saheb is on record for saying that he is unaware of the contents of the Bill of Kufr because he had not studied it. The only thing on which Mufti Taqi Saheb had commented was the question of the validity of the secular courts. Do they have jurisdiction over the Islamic affairs of Muslims? He has made it very clear that the secular courts have no such jurisdiction.

Mufti Taqi Saheb's advice and inclination are to give MPL a chance, i.e. a fully Shariah compliant bill, not a bill of kufr. But Hadrhat Mufti Taqi Saheb is blissfully unaware and out of touch with the situation on the ground. He has not yet to this day studied the South African MPL Bill of Kufr. He therefore is not in a position to comment authoritatively on its contents.

The one grave injustice which Hadrhat Mufti Taqi Saheb has rendered Islam is his reinterpretation of the Shar'i law of polygamy. On this issue, he has departed widely from the fourteen century *Ijma'* of the entire Ummah consisting of all Math-habs. He has glaringly opposed his illustrious father, Hadrhat Mufti Muhammad Shafi (rahmatullah alayh) and all the Ulama on this issue. His retraction of his earlier view which is the view of the Ummah, and substituting it with the opinion of the permissibility of regulating polygamy has served as a thick smokescreen for the MPL clique. It is from behind this smokescreen that they are projecting their Bill of Kufr. On the basis of this solitary issue, the MPL clique claims that Mufti Taqi Saheb is in full support of the current MPL Bill of Kufr. But this is falsehood audaciously propagated to confuse unwary Muslims and to stampede them into accepting the Bill of Kufr.

It should be by this time abundantly clear that the claim that our senior Ulama in India and Pakistan were supporters of kufr MPL is palpably false.

ANSWER THESE QUESTIONS!!!

Dr. Ismail Mangera of Johannesburg has posed a variety of pertinent questions to the MPL molvis. Although a response is not expected from the MPL clique, we nevertheless, reproduce his letter for the benefit of the Muslim public. Dr. Mangera Saheb writing to an MPL Mufti, states in his letter:

*“Respected Mufti Sahib,
Assalamu alaikum warahmatullaahi wabarakaatuhu*

Since our very short discussion on the MPL, certain points have been worrying me. At the outset, I must let you know—as you most probably are aware already—that I am no expert on the matter, but obtain my information from our Ulama who have studied the different issues.

What is worrying me is the information you gave, that the judge will be a Muslim and will have with him assessors to assist him, and that NORMALLY the judge does take the opinion of the assessors into account, unless there is a MAVERICK judge who will do as he likes. Therefore, the following issues are worrying:

(1) What guarantees are there that the judge will follow the normal routine?

(2) Who will be picking the judge? How will the Jamiat guarantee that the ‘Muslim’ judge is in fact a Muslim? If we go by the ‘Muslims’ in parliament, we all know that many are Muslim just in name.

(3) Even if it can be ascertained that the judge is a Muslim, how will we know what his persuasion (khiyaal) is? He could be a Shiaah, Qadiyani, modernist, Bid’ati, Ghair Muqallid, etc. Will the Jamiat be able to check his credentials?

(4) Even if the judge is of our persuasion, what if his lifestyle is that of a faasiq/faajir? How many Muslim judges/lawyers/advocates do you know who have Shar’i beards, perform five times a day Salaat and in general uphold the ahkaam of the Deen?

(5) If the judge is labeled a faasiq/faajir by the Shariat, would it be correct to let such a person decide on the affairs of Muslims, bearing in mind that the testimony of a faasiq/faajir is not acceptable in a Shar’i court?

(6) If the assessors are Ulama-e-Haqq would it be appropriate that they should allow a non-Alim to have the final say in a Shar’i matter? If the judge is a faasiq/faajir then the humiliation is worse!

(7) As the reservations concerning the judge may be applied to the assessors: Who is going to choose them? What will be their persuasion? Will they be pious? What Math-hab will they be following, etc., etc.?

(8) In the Cape who will be the judges and who will be the assessors? Will the MJC decide on these issues or the Jamiat, or neither? If it is the MJC, will they adhere to the criteria of the Akaabireen or will the situation be the same as with the issuing of halaal certificates?

(9) With ghair muqallideen as plaintiffs, how will the judge and assessors approach their problems?

(10) We are well aware that the government is following American policies—privatization, legalizing abortion, gambling, homosexuality, etc. In the face of these issues our Muslim MPs have had to toe the line as Christians and others had to do. It would be naive to think that when this opportunity presents itself to

interfere with the Shariat that those who lay down policy will forgo the opportunity. Anybody who says that this will not happen, is naive to the core.

(11) If in a Muslim country like Pakistan, great personalities like Mufti Taqi Saheb, have been sidestepped and relieved of their positions, what guarantees can the Jamiat give us that this cannot/will not happen here?

The harms far outweigh any benefits – the benefits are material. The harm is that the Shariat will be handed on a golden platter to the kuffar to do with it as they like. Our Hadhrat Masihullah (rahmatullah alayh) said that if a little finger is given to Shaitaan, within a short time he will grab the whole arm (and then the entire body).....If even one person’s Deeni Haq is transgressed (by virtue of this law), then those who have been a party to this bill will be answerable to Allah Ta’ala on the Day of Judgment.

To repeat the approach of our Hadhrat: ‘Avoiding harm takes priority over any benefit’. (In fact this is a principle of the Shariah to be incumbently observed at all times.—Al-Haqq)”

Answers should not be expected forthcoming from the MPL mufti or from any member of the MPL clique. Bereft of answers, due to the Islamically irrational MPL Bill of Kufr, they are constrained to seek refuge in an impregnable fortress of silence. It will benefit Muslims if we answer some of these questions—Al-Haqq

ANSWERS

(1) There are absolutely no guarantees that the judges will not be mavericks. In the light of the Shariah it is only expected that the judges will be mavericks because the court is a secular court of kufr which cannot be expected to function in conformity with the Shariah. On the contrary, the judges have no option other than to interpret any conflict in a manner which will satisfy the constitution and the laws of the government.

The secular profession and route which the judges follow compel them to first offer allegiance to the kufr secular constitution. A man cannot be a judge of a secular court with prior allegiance to Allah Ta’ala. It is a logical truth that judges of the secular court have no alternative other than to strike down any law of the Divine Shariah should it conflict with the constitution or the law of the land. There is absolutely no gainsaying that all ‘Muslim’ judges of secular courts, be they in a Muslim country or a non-Muslim country, come within the scope of the Qur’aanic aayat: “Those who do not decide according to what Allah has revealed (i.e. His Shariah), verily, they are the kaafiroon.” This is the decree of the Qur’aan, not our opinion.

Since the judges have to incumbently abide by the constitutional laws of the country, the question of them NOT being mavericks in the Islamic meaning simply does not arise.

(2) The selection of the judges to decide Muslim affairs in terms of the Bill of Kufr will be the Judge President who in all likelihood will be a non-Muslim. Or the head of the court which has jurisdiction can make this appointment. The question of the Ulama making these appointments has no validity. Never will the Ulama ever have the slightest say in the appointment of secular judges to decide Muslim personal matters in a secular court.

Judges of secular courts are not Shar’i Qaadhis. Their decisions have no Islamic validity and they have no jurisdiction

to decide Shar’i issues even if they are ‘Muslims’. Haraam meat does not become halaal if sold by a Muslim. Zina does not become Nikah or lawful if perpetrated in a brothel operated by a Muslim. In exactly the same way, the decision of a secular court of the kuffaar or of Muslims does not become a Shar’i verdict if the judge happens to be a Muslim.

(3) Regardless of the khiyaalaat (religious persuasion) of the judge of the secular court, be he a Qadiani, Shiaah, Ghair Muqallid or Sunni, he is first a secularist who comes within the full glare of the aforementioned Qur’aanic verdict of kufr. The persuasion with which he was born with is merely an outer façade—a smokescreen of deception which he has to necessarily sustain to appease the Muslim society of which he lamentably happens to be a member. In the first place, if the judge is a true Muslim or a true Muqallid of the Math-habs or a true follower of the Ahlus Sunnah Wal Jama’ah, he would not be sitting on the secular bench while Divine Wrath continuously descends on him. He would have known where his first allegiance lies—with the Qur’aan and Sunnah.

(4) The lifestyle of the ‘Muslim’ judge is a small issue. It has no relevancy in relation to his Aqaaid. No one should befool himself to believe that the Aqaaid of judges of secular courts conform to the Beliefs and Doctrines of the Qur’aan and Sunnah. An exceptionally naive person with an exceedingly dense brain will believe in the Islamic correctness of the Aqaaid of secular judges. The question of the fisq and fujoor of a Muslim judge arises only if his Aqaaid conform to the Qur’aan and Sunnah.

Forget about the judge sahib having no Shar’i beard. When he has shaven off from his heart the Aqaaid of Islam, the shaving of his beard is relatively an insignificant matter.

(5) The question about the correctness of a faasiq/faajir judge deciding Muslim affairs is laughable to the MPL clique. They must be frowning with disbelief because their Bill of Kufr allows for non-Muslim judges to decide Shar’i issues and to have the final say in the interpretation of Islamic law. They have to incumbently interpret Allah’s Qur’aan and Rasulullah’s Sunnah to bring it in line with the constitution which legalizes abortion, gambling and homosexuality.

(6) While in theory the assessors may be Ulama-e-Haqq, in practice this is impossible. Islamically, Ulama-e-Haqq will never agree to act as assessors of a kufr court which will set the Qur’aan aside and decide in terms of the godless constitution. The outlook, persuasion, thinking, beliefs and training of the non-Muslim authority responsible for the selection of assessors cannot permit the selection of orthodox Ulama who still live in the golden, glorious and holy Camel Age of Muhammadur Rasulullah (sallallahu alayhi wasallam)—the glittering Age of the Qur’aan. It is a big joke to believe that Ulama-e-Haqq will serve as assessors under the banner of kufr. A long cloak, a turban, a beard and a Madrasah certificate are not necessarily evidence that the body and soul behind this holy facade is an Aalim of the Haqq. There are many with such outer-appearances who are, in the words of Rasulullah (sallallahu alayhi wasallam), “Shayaateen in human bodies.”

(7) In the Cape or anywhere else,

neither the MJC nor any of the spiritually emaciated Jamiats will have the right to select and decide on the issue of judges and assessors. This is the function of the Judge President or some other similar legal personnel of the secular system. The issue of the ‘halaal certificates’ in relation to the kufr trash of MPL recedes into oblivion.

(8) Irrespective of the religious persuasion of the plaintiff, the judge will and has to decide according to the law of the land and bend or reject any conflicting Qur’aanic principle or law to satisfy the secular constitution. While the plaintiffs will be of a variety of religious persuasions, the secular constitution and the Bill of Kufr are uniform, hence the application of the kufr proposals will be uniformly subjected to the constitution.

(9) Besides the fact of the government following American policies, the very MPL proposal is an American and a western scheme to displace Islam—to alienate Muslims from this Deen of Allah Ta’ala by deceiving them into believing that the Bill of Kufr is the Shariah of Allah. This Bill is the first step in the process of the kufrization of the Deen.

(10) In a country like Pakistan, at least there was an external show or a semblance of a Shar’i court, hence personalities such as Mufti Taqi Saheb were appointed with extremely limited scope for Islamic manouvering. Even then, they were given the boot. In South Africa, the question of firing Islamic personalities or giving them the humiliating boot will not arise because true Islamic personalities will never and can never sit on the benches of kufr nor is it practically feasible for the authorities to have such Thorns in their legal and constitutional flesh.

A SHAR'I COURT

An observer who possesses proper Ilm of the Deen will be aghast at the ludicrousness of the proposals which Muslims, even some Ulama, make. They wrangle and wrangle on the issue of the status of the decisions administered by a secular court. They labour to give such decisions Shar'i status on the absurd grounds of the secular judge being a 'Muslim'.

In the opinion of these wranglers, the only requirement for the validity of an Islamic court is that the judge should be a Muslim. This is the view of misguided Maulanas who have been cast into confusion by Muslims of western outlook.

In the opinion of the other group of wranglers, it is not necessary to even have a Muslim judge. A non-Muslim judge serves the MPL purpose. The cat's mess is simply covered up with the assessor smokescreen.

Let it be well understood that in a non-Muslim country or in a Muslim country where godless secularism governs, a Shar'i court will be valid and its decision accepted only if:

- (1) The judge is a proper Qaadhi, not a mixed-up hybrid like the so-called 'Muslim' judges of secular courts.
- (2) The Qaadhi is not encumbered with the secular constitution nor with any law on the statute book which impedes the operation of the Shariah in its pure and unadulterated form. In other words, the Qaadhi will issue pure Shar'i verdicts in conformity with the Math-hab of Haqq he is following.

If these essential requisites are met, only then will it be said that the court is a Shar'i Court. It is lawful in the Shariah to petition a non-Muslim government or a secular government in an Islamic country to enforce the verdicts of this type of Shar'i Court. The function of the secular authority will be restricted to enforcement. But the verdict which will be enforced will be the verdict of the properly constituted Islamic court. Nothing short of this system is acceptable. If even one of the vital essentials is lacking, the court will NEVER be a valid Shar'i court nor will it be competent to decide on Shar'i issues.

This makes clear that discussion on assessors and persuasion of the judge in a secular set-up are plain stupidities of men who are barking up the wrong tree.

THE DUTY OF THE ULAMA-E-HAQQ

It is the *Wajib* duty of the Ulama in pursuance of their sacred obligation of *Amal Bil Ma'roof Nahy Anil Munkar*, to study the MPL Bill and to understand the numerous diversions from the Shariah culminating in a litany of Kufr. The aim of the study is to enable the Ulama to expertly guide their flocks and to save Muslims from the spiritual disaster of the MPL Kufr measure.

It is the incumbent duty of Imaams of Musaajid and the Ulama in general to diligently educate Muslims of the dangers of MPL Kufr and to solidly support for the pure and sacred Shariah of the Qur'aan and Sunnah which is under threat of displacement.

ERRONEOUS AND MISLEADING

The MPL clique has attempted by deceit to achieve its sinister aim of having MPL imposed on all Muslims regardless of their Islamic and constitutional rights and wishes. The deceptive device which the Project Committee incorporates into its Bill of Kufr reads:

"Application if this Act 2 (2) The provisions of this Act shall apply to a Muslim marriage contracted before the commencement of this Act. Provided that the parties shall be entitled, within a period of 12 months or such longer period as may be prescribed, as from the date of such commencement, jointly to elect in the prescribed manner not to be bound by the provisions of this Act, in which event the provisions of this Act shall not apply to such marriage."

Responding to this piece of legal junk ludicrously devised to ensnare all Muslims into the decadent mess of MPL, the Daarul Ifta of Madrasah In'aamiyyah of Camperdown, Natal, states in its 50 page rebuttal of the Bill of Kufr:

"This clause contains coercion in matters of religion. Let alone the Shar'ee perspective, even from a constitutional angle the Bill has its flaws. These have been detailed by Prof. Ziyad Motala in his article titled "The Draft Bill on the Recognition of Muslim Marriages: An Unwise, Improvident and Questionable Constitutional Exercise". We urge all, especially members of the legal fraternity, to view the article from our site www.alinaam.org.za. The Professor would be most willing to engage any person on the constitutional issues raised therein. As expected, lawyers of the pro-Bill lobby have been unable to respond. We, supported by the majority of Ulama, would like to exercise our constitutional right in this respect. We do not regard the Bill to be compliant with the Shariah as we understand it. If a party has some other interpretation of the Shariah, then they should not impose their interpretation on us. We would therefore request the authorities to exclude all Muslim marriages from the provisions of the Bill. Thereafter, those Muslims whose conscience allows them to enter into this hybrid

system of Law, may apply to be governed by the Bill. Therefore, if the Bill does ever go ahead, this clause should be revised."

In response to this perfectly fair and legitimate concern, Mr.M.S.Omar, the MPL clique's, chief spokesman, wrote:

"This is your opinion which is respected. Every person has the opportunity to opt out, which will be a simple procedure governed by regulations. But opting out means that one will be governed by the existing secular law as opposed to the perceived hybrid system under the bill. Muslims currently invoke the existing secular law on a regular and ongoing basis to seek justice and to remedy hardships, despite what ulama or others say. Hence, opting out places a person in a worse position, as opposed to the statutory framework created by the bill which provides a vital opportunity for alternate dispute resolution. No person can avoid the law, with the result that persons who opt out, will be bound by Orders of Court in terms of existing legislation, in any event. Hence, opting out does not solve problems."

Mr.Omar has completely sidestepped the issue of the MPL deceit and trick to trap all Muslims into the net of the Bill of Kufr. Instead of responding to the objection of Daarul Ifta, he lapses into a meandering explanation to confuse people and to create the impression to unwary Muslims that his Bill of Kufr is the lesser of the evils, and that there is no better alternative to MPL.

The objection to the clause lodged by Daarul Ifta pertains to the attempt to impose MPL on all Muslims irrespective of their wishes. Mr.Omar shies away from answering the objection. Rather, he presents the imagined benefits of accepting MPL and the imagined harm of opting out. He embarked on this diversion because of his inability to answer the objection.

We shall now point out the number of errors and flaws in his response and the confusion which his response aims to create in the minds of unwary Muslims who are not versant with the claptrap of

the Bill of Kufr.

(1) The Daarul Ifta's contention is not that 'every person' is unable to 'opt out'. The objection is against the attempt to impose MPL on every person by deceit. The opting out is only in theory, not in practice. 99% of the Muslim public and the overwhelming majority of even Muslim intellectuals will be blissfully unaware of the existence of this innocuous clause which covertly seeks to impose MPL on them

Howmany people in the street are aware of the innumerable Acts of Law? Not even the lawyers, advocates and judges are aware of all the laws on the statute book. It will be no exaggeration to claim that *all* the people in the street have no knowledge of what is said in the plethora of Acts cluttering the law books. It is deliberate stupidity adopted to answer what is indefensible, to aver that the masses will be aware of the mass of rules and laws in the Act.

Innumerable Muslims, in their ignorance, had registered their marriages in community of property, only to discover later that this system invalidates an Islamic Will. Only when a person is confronted with the problem does he discover the law. If these people had foreknowledge of the effect of community of property, they would not have opted for it. It is, therefore, ridiculous to expect the masses to know about the 12 month stipulation in the *Application clause*.

The MPL clique is fully cognizant of this reality, hence they have deliberately inserted the 12 month clause to achieve their pernicious aim of gaining by default the imposition of their MPL kufr on almost all Muslims. It is only the exposure of the bill by the Ulama that has placed this iniquitous measure in the glare of public scrutiny and criticism. Prior to the dissection of the Bill of Kufr, they had all their baatil wrapped up and disguised with Islamic hues, confident in achieving their designs.

(2) The skullduggery which constitutes the response of the MPL spokesman is legal claptrap. The inordinate desire to have this kufr imposed

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on all Muslims has obscured the already oblique mental vision of the MPL clique. They have failed to realize what even a junior lawyer should know. The constitution outlaws discrimination on the basis of colour, creed and sex. At least those who have taken it upon themselves to formulate an Act of secular law in the light of the constitution should have known that the imposition by default clause is in conflict with the constitution. It can never stand up in the constitutional court. It will be necessarily struck down if Parliament lapses into the same blunder which the MPL clique has committed.

A law which does not apply uniformly to all segments of the population of this country and seeks to impose on a section of the people on the basis of religion, is decidedly an act of discrimination in terms of the constitution. In fact, this clause is compounded discrimination in that it unfairly imposes on Muslims in two ways:

(a) It discriminates against Muslims on the basis of religion by imposing on them a measure which is not imposed on the rest of the people of South Africa. (b) It imposes on Muslims a religious persuasion which is foreign to their beliefs. Freedom of conscience is a cornerstone of the constitution. MPL seeks to deny this constitutional right to Muslims. It is truly surprising that the lawyer and the judge on the Project Committee have failed to understand this basic constitutional fact. How can MPL be forced on unwilling Muslims when all other sections of the population are automatically exempted?

If the rest of the population need not apply for exemption in the prescribed manner, why should Muslims who abhor the Bill of Kufr have to apply for exemption, especially when they are not the type of 'muslims' the MPL Bill of Kufr caters for?

(3) What does the MPL spokesman mean by "Every person has the opportunity to opt out"? Is this "every person" restricted to Muslims or do all citizens of the country come within its scope? If it applies to only Muslims, it will be in conflict with the constitution because of the discrimination it entails on the basis of religion. A law which prescribes automatic exemption for non-Muslims, and exemption in the prescribed manner "governed by regulations" for Muslims, is discriminatory hence unconstitutional. Others have no need to follow the supposedly "simple procedure governed by regulations". So why should Muslims be encumbered with this need? And, how can the constitution tolerate such blatant discrimination?

(4) The spokesman claims that by opting out "one will be governed by the existing secular law". Assuming that this is correct, the question is: What is the difference between MPL kufr and the existing secular law? It is six of the one and half dozen of the other. By opting out of MPL kufr, what will be governed by the existing secular law and how will it be governed? This claim is exceedingly misleading.

There is no incumbency for the existing secular law to apply to Muslim Nikah, Talaaq, etc. Just as it did not apply to us since the inception of the Muslim community's settlement in this country, so too will it not apply to us in the absence of MPL kufr.

To this day, MPL has not existed in South Africa. Therefore, right now the question of 'opting out' is superfluous. There is nothing presently from which to 'opt out'. We are presently, like in the past, governed by the existing secular law. There is no 'opposed' kufr MPL law as yet. What are the difficulties and disadvantages which Muslims are presently experiencing under the 'existing secular law'—difficulties and disadvantages which will be remedied and eliminated by MPL law?

We are not aware of any difficulties and disadvantages which MPL law will be able to eliminate. On the contrary, any disadvantage which Muslims may be presently experiencing under the 'existing secular law' will only be compounded and rendered worse under MPL law. This worsening will be on account of coercive imposition of anti-Shariah measures. We do not accept that the MPL proposals conform with the Shariah. The existing system is therefore the lesser of the two evils.

LESSER EVIL

It is the lesser evil because it does not impose on Muslims in their marriage and divorce affairs a system which they are unwilling to accept whereas MPL will impose in the name of Islam laws which we believe to be in conflict with the Shariah. It is therefore imperative that Muslims should not be associated with this Bill of Kufr.

The existing system is furthermore, infinitely better than MPL because it does not criminalize Muslims who:

- Enter into Nikah under the age of 18
- Marry a second, a third, and a fourth wife during the subsistence of the first marriage
- Do not register their Talaaq
- Who do not conform to the variety of prescriptions

ERRONEOUS AND MISLEADING

which the MPL Bill of Kufr proposes,

The existing secular system is furthermore superior and better because there is no fear of being fined thousands of rands or being jailed for performing Nikah. It does not impose encumbrances on our immemorial system of performance of Nikah in the Musaaqid nor on the manner in which Talaaq is issued. The existing system does not interfere with the *Faskh* verdicts issued by the Ulama whereas the Bill of Kufr seeks to transfer this Deeni function to the secular courts of the kuffaar.

The existing secular system does not empower secular kuffaar courts to subject the Shariah to secular interpretation whereas MPL gives them this power.

While the existing system does not consider a polygamous marriage to be legally valid, it does not criminalize Muslims who enter into such marriages in sacred bonds in terms of the Shariah.

The existing system is favourable to Muslims who have mistakenly registered in community of property thereby preventing the execution of an Islamic Will. It 'benevolently' allows stratagems for termination of the community of property system to enable the Muslim spouses to arrange for Islamic Wills. On the contrary, MPL Kufr harshly prohibits the distribution of the Muslim's estate in accordance with the Shariah. It urges the secular courts NOT to annul the community of property arrangement as long as the husband has not terminated his Islamic marriage with Talaaq. Let these evil members of MPL hang their heads in disgraceful shame for this vile and dastardly proposal of kufr. The Bill of Kufr states:

"16. (1) In the event of a spouse to an existing civil marriage instituting a divorce action in terms of the Divorce Act after the commencement of this Act, the court shall not dissolve the civil marriage by the grant of a decree of divorce until the court is satisfied that the accompanying Muslim marriage has been dissolved."

This proposal is thoroughly evil in its design and effects. The consequences of this evil measure are:

- The civil or court 'marriage' into which a Muslim had floundered cannot be dissolved without the husband issuing Talaaq to his wife.
- The primary aim for the desire to dissolve the court marriage is to enable the spouses to prepare Islamic Wills. If they had registered

in community of property or even according to antenuptial contract which does not exclude the accrual clause, then an Islamic Will is not valid. For the purpose of executing the Waajib obligation of arranging for the distribution of the estate in accordance with Islam's laws of inheritance, the need is imperative and *Waajib* to cancel the civil 'marriage'. But MPL says, 'NO!' The court has first to satisfy itself that the husband had issued Talaaq, ruined his life, his wife's life and the lives of his children by ending his Nikah. After he has terminated his Nikah, only then should the secular court dissolve the civil 'marriage'.

We, and we are sure, all Muslims will fail to understand the logic and need which had constrained the MPL clique to fabricate this piece of kufr and injustice. Why should Talaaq be administered before the civil 'marriage' could be ended?

- An Islamic Will is invalid as long as the civil 'marriage' has not been dissolved.

We can only infer that there is a sinister design underlying this haraam proposal. That sinister motive is to placate the gender equality mob and to 'upgrade the rights of women'—rights which they all claim are denied by Islam. The slaves of western modernism are aware that when a Muslim desires to dissolve his civil 'marriage', it is only to satisfy the Shariah so that he could direct that his assets be distributed according to the Shariah's Law of inheritance which 'disadvantages and discriminates' against woman in the understanding of the modernist miscreants. Since Islam does not subscribe to the kuffaar concept of equality of sexes, the modernists and wayward MPL clique have designed this ruse to thwart distribution of the estate in terms of the Shariah, hence, the provision of first dissolving Nikah, then only the civil 'marriage'.

What interpretation other than *kufr* can be made of a measure which proposes that Talaaq be stipulated as a requisite for the dissolution of a civil 'marriage'—a 'marriage' which is not Nikah in the Shariah and which has no effect and consequences in Allah's Law? What comment should be made on this sinister and vile proposal?

- (5) The MPL spokesman's claim that by opting out, the existing system will govern Muslims, is highly

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misleading. What exactly will it govern? We have been born in this country and lived here all our lives without the existing system making any attempt to govern our Nikah, Talaaq, Custody, Maintenance and relevant affairs. The existing secular system had not and does not involve itself with our 'Personal' affairs. It is, therefore, totally misleading to say that 'opting out' of MPL necessitates submission to the 'existing secular system'. When there is no interference from the existing secular system in our 'Personal' affairs, the question of being governed by that system does not arise in this private religious domain.

(6) The allegation: "Muslims currently invoke the existing secular law on a regular and ongoing basis to seek justice and to remedy hardships", is also misleading. They do not resort to the secular courts on a 'regular and ongoing basis' to solve their Deeni affairs as is alleged. Those who do so are either people who have no concern whatsoever with the Shariah and are not interested in an Islamic solution, or they happen to be those whom circumstances constrain to enlist the aid of the secular court. The latter group will content themselves with only extracting what the Shariah allows. As for the former group, they are not our concern.

Furthermore, MPL does not offer any Islamic solution. One who enlists MPL falls from the frying pan into the fire. The situation in the case of the former group is thus, one of the lesser of the evils to resort to the secular courts.

Our concern is with the first group, viz., those who desire that their lives be regulated by the Shariah. As for those who have no such concern, it does not matter which worldly route they take. They will seal their own doom by means of their flagrant violation of the Shariah. The first group has to understand, and these are the people we are targeting by exposing the rot that MPL is, that MPL is not the Shariah. It stands in diametric opposition to the Divine Shariah of Islam. It aims to regulate, direct and govern our 'Personal' affairs in such a manner which is totally unacceptable to the Shariah.

Whereas the primary concern of the MPL clique is to appease the western master by bending and forcing the Shariah to submit to the secular constitution, our concern is to ensure that the Shariah remains unadulterated in the same way as it had existed 14 centuries ago and in the same way as it was transmitted to us down the centuries from the age of the Sahaabah.

The solitary occasion when a need may arise for enlisting the aid of the secular court is to compel a recalcitrant husband to pay maintenance for his minor children. Besides this one sphere, there is absolutely no need for anyone to refer to the existing secular system, and if anyone does, he/she does so voluntarily, not because there is governmental interference. He has his own private motives, which may be valid or corrupt, depending on the circumstances which dictated

the option of the secular court.

When it is the occasion for Nikah, 100% of the community take the route directly to the Musjid. Be the Muslim, a hard-core modernist, if there is still the flicker of Imaan in him, he turns his face to the Musjid for Nikah. The secular system has absolutely no admission here.

If it is Talaaq, Khula' or Faskh., every Muslim of whatever persuasion, hastens to the Ulama. They NEVER head for the secular court to gain dissolution of their bonds of Nikah. If they resort to the court, it is to dissolve the civil contract, not the Nikah. Thus, in this sphere the existing secular system has absolutely no admission.

If the matter pertains to Hadhaanah (custody and guardianship), by far and large, Muslims refer to the Ulama. Only those whose Imaan has suffered terrible corrosion will dare to ignore the Shariah and proceed directly to the secular court. In any case, even in terms of MPL, the final decision on the issue of custody and guardianship will be that of the secular court. It is the secular court which will interpret in the light of the secular constitution what constitutes "the welfare and best interests of the child". It should be borne in mind that the interpretations of the Shariah and the secular courts are widely divergent. What constitutes 'best interests and welfare of the child' may be immoral according to Islam. Hence, the alternative which MPL offers to the existing secular system in the domain of custody and guardianship of minors is no better than what is presently offered by the secular courts.

Assuming that the MPL offers something slightly better than the present secular system in the matter of custody and guardianship, such little advantage will not overshadow the immense harm, corruption and the kufr of the MPL Bill of Kufr. It is an accepted principle that everything in this world, even the worst evil, has some benefit. But such benefit will not constitute a basis for acceptance of the evil. This principle applies aptly to the MPL Bill of Kufr.

The MPL Bill of Kufr does not even touch on inheritance. Why did it exclude this vital aspect from 'Muslim Personal Law' when even the overseas brand of MPL from which the Project Committee has been cribbing, does not exclude Inheritance. The only reason why the South African brand of MPL chose to bypass the important aspect of Inheritance is that the 'inequities' of Islamic inheritance in the light of the kufr constitution are too stark. Neither the constitution nor the gender mob, nor the women's lib Movement which is being wooed by the MPL clique will ever tolerate the Divine Discrimination decreed by Allah Ta'ala in the matter of inheritance. In this department the daughter inherits half the amount a son inherits. This is the motive for the MPL clique's silence on the issue of Islamic Inheritance in spite of it forming an essential part of 'Muslim Personal Law'.

(7) The only sphere in which Muslims who have a very slack bond with Islam

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resort to the existing secular system is when they are overcome by the desire to consume haraam. In this regard the main culprits are women who are dissatisfied with the Islamic dispensation. The weakness of Imaan and their ingratitude to Allah Ta'ala constrain them to rebel against the *Nafqah* laws of Islam. They feel that it is *-Nauthubillah!* - an act of injustice for the man to pay maintenance for only the *iddat* period. They see the material benefit which their greed for haraam can gain for them through the secular court, hence they take the road to the court. MPL cannot remedy this inherent attitude of *kufr* in women of this category. Furthermore, MPL does not provide a Shar'i solution or alternative for the existing secular system. The ultimate decision on fair and reasonable maintenance and the duration of the maintenance is the prerogative of the secular court operating in the light of the secular laws of the country to which it is subservient.

(8) This discussion will dispel the baseless claim that "opting out" will put a person in a worse position. It is utterly false to make this claim. We all are presently outside MPL. What are the difficulties we are facing as a result of this? There are no difficulties as have been explained in the aforementioned discussion. The MPL spokesman adopts scare tactics in his endeavour to persuade Muslims to opt for the Bill of Kufr. He tries to scare Muslims with an imaginary "worse position" when no such position exists. It does not exist presently nor will it exist in future. If a worse position can come about, it will be in consequence of opting for MPL kufr.

It is important for Muslims to understand that in the existing secular system they have tremendously more religious freedom than what they will ever have if they have to opt for the MPL Bill of Kufr. This is so because the present secular system with its flexible constitution offers wide latitude for interpretation and scope for circumvention to enable us to practice our Deen as best as circumstances permit.

On the otherhand, MPL while also a secular system, will directly interfere with our 'personal' Deeni affairs which the existing secular system does not do. No one should therefore allow himself/herself to be beguiled into the trap which the votaries of MPL have prepared for some sinister motives which bode evil for the Muslim community.

(9) The other bogey which the MPL ignoramuses present to scare Muslims is their contention, "No person can avoid the law, with the result that persons who opt out, will be bound by Orders of the Court in terms of existing legislation". This claim is manifestly baseless. In the matter of our Nikah, Talaaq, Khula', Faskh, Miraath (Inheritance), etc., the Muslim community effectively avoids the secular law and are not bound by any 'Orders of the Court' in these spheres. A Muslim allows the yoke of the kufr court's orders to be placed on his shoulders by

his own volition, not by any incumbency dictated by the secular law. When a Muslim is not satisfied with Allah's Law, then he assumes the burden of kufr law of his own accord. It is not the existing secular system which compels him/her to become subservient to any court order in matters pertaining to 'Muslim Personal law'. The fallacy of this claim should thus be conspicuous.

THE DISASTROUS MPL PROCESS — IN REPLY TO MAULANA YUSUF PATEL

The Darul Ifta of Madrasah In'aamiyyah of Camperdown, Natal has prepared a 50 page response to an article by the pro-MPL Molvi Yusuf Patel (please note, not Maulana Yunus Patel). For a copy of the Darul Ifta's Response, please write to: Darul Ifta, Madrasah In'aamiyyah, P.O.Box 39, Camperdown 3720.

OUR RESPONSE TO MUFTI ASHRAF OF SPRINGS

Mufti Ashraf of Springs in an Urdu article, expressed subtle support for the MPL exercise. The Mujlisul Ulama has responded and refuted his views in a three 3 page Reply in English. Whoever is interested, may write to us for a copy. Stamps will be appreciated.

A WARNING WHICH MUSLIMS MUST HEED!!!

Nikah, Talaq, Khula' and Faskh (Annulment of marriages) are all sacred Ahkaam of the Shariah. The Qur'aan and the Sunnah permit no interference of aliens in these domains. Zina (fornication/adultery) and illegitimacy are the consequences of submitting these Ahkaam to secular systems, among which the worst to date is the present MPL Bill of Kufr.

'Marriages' contracted by the agents of Kufr under MPL deception will not be the sacred Nikah bond which the Ummah knows and the route of which leads to the Masjid, not to the secular courts nor to registration and marriage officers appointed by the secular kuffaar authorities.

In the remote and unlikely event of the MPL Bill of Kufr being accepted by the government, Muslims are to incumbently dissociate from it. They are not allowed to entrust their spiritual and moral lives to the secular authorities even if such officers appointed by the secular authorities happen to be Muslims. They must understand that they will be exposing themselves to a union of adultery and immorality with its vile consequence of illegitimacy should they substitute the Masjid for the secular court or any other secular venue for creating the sacred Nikah bond or for any other Deeni matter such as Talaq, Faskh, etc. This is a dire warning which every Muslim has to necessarily take cognizance of.

The Ulama of this country, barring the sell-outs and turncoats and the somersaulters and those who make U-turns, by far and large, condemn and reject in entirety the MPL Bill of Kufr.

Maulana Abbaas Ali Jeena, has betrayed Islam and the Ummah by his intransigent association with aliens and by his dissociation from the Body of Warathatul Ambiya. Mr. Shuayb Omar is not an Aalim of the Deen despite him flaunting a smattering of Arabic which has made him sufficiently audacious to voice opinions in the light of the Maaliki Math-hab on the basis of his extremely deficient research of the Maaliki kutub of Fiqh. In spite of his adm-e-taqleed (i.e. not being a Muqallid of any Math-hab), he conceals behind the skirts of Hadhrat Mufti Taqi Uthmaani sahib under whom he had done a brief stint of defective study. Mufti Taqi Saheb too should take note of the harm of this unfortunate association which the ghair muqallid has with him.

We reiterate our WARNING to the Muslim community— Marriage under MPL is not Nikah. Talaq for its validity is not dependent on MPL approval and registration. Faskh (Annulment) of marriages granted by MPL courts will not be Faskh in terms of the sacred

Shariah. The Nikah of any Muslim which has been subjected to a procedure of mock annulment by an MPL court, remains intact in the Heavens and in the Law of Allah Azza Wa Jal. A woman will not be able to enter into a Nikah with another man if an MPL baatil court annuls her marriage. Such annulment will be void. It will NEVER constitute a Shar'i Faskh. Muslims should, therefore, beware of dabbling with this innocuous measure which misguided individuals are desperately and feverishly slogging to get imposed on Muslims.

Muslims must understand that for all their 'Personal' Deeni affairs, there is only one route—the route to the Masjid and the Ulama Councils. There is nothing whatsoever to replace these sacred Institutions which Allah Ta'ala has established here on earth for the defence of Islam and for the guidance of the Ummah after the departure of Muhammadur Rasulullah (sallallahu alayhi wasallam) from this transitory abode of the dunya.

We make this statement fully understanding our responsibility to Allah Ta'ala, our duty to the Muslim Community and the Accountability in the Court of Allah Ta'ala on the Day of Qiyaamah. The Haqq lies ONLY with us — with the Ulama-e-Haqq who are the Representatives of the Rasool in whom you profess Imaan.

Be you a modernist, a faasiq or a faajir—you are nevertheless, a Holder of Imaan which is the pivot of your Najaat (Salvation) in the Akhirah. This Imaan demands that in spite of your fisq and fujoor you at least submit to Allah's Law in matters pertaining to your Nikah, Talaq, Miraath, etc. You thus have no alternative, but the Shariah as the Ulama expound it, not the hybrid mixture of Kufr which the American MPL Bill of Baatil offers you under the deceptive façade of a new form of re-interpreted 'islam'. May Allah Ta'ala guide all Muslims to understand and see which way they are heading. (Statement and Naseehat by MUJLISUL ULAMA OF SOUTH AFRICA WHICH HAS THE SUPPORT OF THE Jamhur Ulama of South Africa)

"Revisiting" The Conflicts

In a letter to a Mufti Saheb, Maulana Abbaas Ali Jeena Saheb, member of the Projects Committee responsible for the MPL bill, writes:

"I agree that there are certain provisions of the bill that we need revisit. Ulama need to sit together and bring about the changes and insist to the minister that we cannot accept certain provisions as they stand at the moment."

THE RESPONSE IS:

Maulana Abbaas Ali Jeena Saheb has agreed that "certain provisions of the bill need to be revisited". By this need we infer that "certain provisions" are in conflict with the Shariah hence the need to "revisit" them. The term "revisit" is new to Ulama parlance and needs to be explained to avoid misunderstanding and misleading. We shall opt for the simple term, 'reconsider'.

CONFLICT

The statement of Maulana Jeena Saheb concedes that the bill or at least certain portions of it are in conflict with the Shariah. If by his own admission it is so – in conflict with the Divine Shariah – the question arises: Why was the bill submitted to the Minister of Justice for his approval? Surely the Minister's job is not to streamline the bill to make it conform with the Shariah! When the Maulana Saheb was fully aware of the flaws and anti-Shariah content of the bill, what constrained him to support the move to send the bill to the Minister of Justice? What is expected of the Minister of Justice?

Surely nothing other than his approval and to send the bill on to the next phase in its onward passage in the law-making process.

If the majority of the Project Committee had overwhelmed the Maulana Saheb and rejected his opposition to the conflicting and offending provisions, and submitted the bill to the minister despite his opposition, then Maulana Jeena Saheb was under obligation to have distance himself from the bill and make known his dissociation. The current impression which everyone justifiably gains is that in spite of him conceding that the bill contains provisions in conflict with the Shariah, he agreed with the Project Committee to submit the bill for the minister's approval.

INSISTING

Maulana Abbaas Ali Jeena Saheb suggests that the Ulama should insist to the minister that certain provisions of the bill cannot be accepted. If there is such a dire need for the Ulama to insist to the minister that "we cannot accept certain provision as they stand at the moment", then why was the bill submitted to him? Why did the Ulama not associated with MPL allow the bill to be submitted to the minister for his approval? Did Maulana Abbaas Jeena Saheb and any other Maulanas associated with MPL inform the anti-MPL Maulanas of the certain unacceptable provisions of the bill prior to handing the bill to the minister for his approval?

Surely, it was not expected of the minister to effect changes to make the bill comply with the Shariah. His job is only to see if the bill complies with the constitution and that there are no conflicts with the law of the country.

SIT TOGETHER

If the bill contained the flaws which Maulana Abbaas Jeena Saheb concedes, what arrangement did he make to organize a 'sit-together' with the Ulama? When we speak of Ulama meetings, we do not refer to the type of workshop meetings which the Project Committee had been conducting.

BUHTAAN

While Maulana Jeena Saheb may lament that 'buhtaan' (slander) is being levelled at him by the critics of MPL, he should examine his own failure to dissociate from a bill in which the provisions are unacceptable, hence requiring the Ulama to oppose these provisions at this very late stage. If such insistence is so necessary, we have to ask: 'Did Maulana Abbaas Saheb make this insistence to the minister? If not, why has he failed in his duty to do so? Is it then the duty of only the anti-MPL Ulama to point out the serious flaws of the bill? Is he not an Aalim of the Deen? Does the obligation of defending the Shariah not devolve on him as well? Is it imperative for the Ulama to first sit together before the minister can be apprised of the unacceptability of certain provisions of the bill?

Since he has grossly failed to dissociate himself from the unacceptable provisions and since he has not made known his stand to the minister, he should not lament with the 'buhtaan' allegation. Even if all the anti-MPL Ulama dissociate from the move to insist to the minister "that we cannot accept certain provisions as they stand at the moment", it devolves upon him as the Maulana on the Project Committee to make this insistence known to the minister and to inform the other Ulama exactly what has he found objectionable and unacceptable in the bill of which he is joint author and responsible for its submission to the minister.

The big question remains: If by his own admission certain provisions of the bill are unacceptable, then why was the bill submitted to the minister with the Maulana's approval? If the Maulana Saheb did not approve, then no one outside the Project Committee is aware of his disapproval.

THE QUESTIONS WILL BE ANSWERED

In letters to certain Muftis, Maulana Abbaas Ali Jeena Saheb has posed some questions and has presented his views of MPL—views which are not new. Insha’Allah, in a future issue of Al-Haq, we shall adequately answer his questions.

DID THEY RECTIFY THEIR PROPOSALS?

Hadhrat Mufti Taqi Saheb states in his letter dated 17th January 2004:

“I am sending a separate reminder to the concerned (MPL) Ulama regarding such proposals in the bill which in my deficient opinion deserves rectification.”

Did the MPL clique attend to the rectification process? If yes, let them make public their effort in this direction. If no, let them explain. Secret and clandestine meetings are most unbefitting since this kufr measure affects all Muslims. An end should be put to the haraam workshop gatherings at which even homosexuals and fussaag present their ‘inputs’ of fisq and fujoor.

MPL AND MUFTI TAQI

Hadhrat Mufti Taqi Saheb expressing his unawareness of what is happening on the MPL issue, writes in his letter dated 17th January 2004:

“At another stage, the Transvaal Jamiatul Ulama invited me to a gathering of Ulama in Durban where my opinion was sought on the Fiqhi masaa-il of the draft bill. Again, over there, I presented my opinion within the limits of my knowledge (i.e. awareness of the situation). But with regard to the changes which were effected to the draft bill at various stages, I was unable to gain knowledge thereof on account of being thousands of miles far away (from South Africa) where the variety of changes were being made.”

WITHDRAW THE BILL

Hadhrat Mufti Taqi Saheb, writes:

“...If, Allah forbid, any such basic changes are made (i.e. when the bill is presented to parliament), then withdrawal of the bill should be contemplated.”

In his letter, Mufti Saheb advises that the senior Ulama should reflect on the draft bill and effect the necessary changes to make the bill comply with the Shariah. The emphasis he says should be on issues of Shar’i masaa-il.

MUFTI TAQI AND MARRIAGE OF MINORS

In his book, “OUR FAMILY LAWS”, which was written by Hadhrat Mufti Taqi Uthmaani Saheb in refutation of Pakistan’s MPL some years ago, he states on the issue of marriage of minors:

“It is for this reason (i.e. in view of the Qur’aanic and Hadith proofs) that the entire Ummat unanimously is in agreement to this day that the marriage of a minor is permissible. Allaamah Abu Bakr Jassaas Raazi (rahmatullah alayh) thus writes in the tafseer of this aayat: “This aayat furthermore indicates that the father has the option of having his minor daughter married...And, we have no knowledge of any Faqeeh of any land among the former Fuqaha differing on this permissibility.” (Ahkaamul Qur’aan)”

Hadhrat Mufti Taqi Saheb wrote the above in refutation of the MPL proposal which makes the marriage of minors unlawful. And, this is precisely one of the objections which the Ulama have against the ‘age of consent’ proposals of the South African MPL Bill of Kufr.

THE BLATANT LIE OF THE NATAL JAMIAT

In a letter to its sub-committee, the Natal Jamiatul Ulama has brazenly resorted to a blatant LIE in its bid to sell the MPL BILL of KUFR. Since the MPL clique with its molvi supporters have grossly and miserably failed to present a rational and a Shar’i refutation or intelligent answers to the numerous objections which the anti-MPL Ulama have lodged against the MPL Bill of Kufr, the feverish attempt is in progress to rope in the Muslim community with blatant lies. The falsehood and deception are grovelling the dregs of the barrel.

In its letter, the Jamiat’s spokesman Maulana Yunus Osman states:

“Also Mufti Taqi Usmani Saheb has taken the time and gone to great length to make a clause analysis to make the Bill 100% Shariah compliant.”

The claim is made that Hadhrat Mufti Taqi Saheb has made a “clause by clause analysis” of the Bill of Kufr and had concurred with it. The implication conveyed to the Muslim community by the dissemination of this blatant untruth is that Mufti Taqi Uthmaani Saheb has ruled that the bill is 100% compliant with the Shariah.

We challenge the Jamiat to present to the public Mufti Taqi’s “clause by clause analysis” and his findings. Making sweeping claims of falsehood is extremely despicable, and this despicability is aggravated by the fact that it is being made in the name of a body which is supposedly an organization of Ulama.

While the Jamiat has made bold its lie, Hadhrat Mufti Taqi Saheb in an eight page letter dated 17th January 2004 states unequivocally:

“At one stage the draft bill was sent to me also, for my opinion. However I did not have the time and opportunity which are necessary for commenting properly and venturing an opinion on a draft bill of law. Nevertheless, whatever I could comment superficially on its various clauses, I forwarded it in written form. At the same time I requested

that the draft be submitted to the Ahl-e-Fatwa (Ulama) over there (in South Africa) for giving it a final form.”

Elsewhere in his letter, Hadhrat Mufti Taqi Saheb states:

“After some time some Ulama of South Africa contacted me and informed me that on account of some constitutional rules, different Ulama are not in favour of presenting the MPL bill (to parliament). From this I inferred that perhaps in the constitution of South Africa may be such factors which render the benefit of the bill doubtful. I then said (wrote) to them that hitherto whatever opinion I had made known with regard to Muslim Personal Law was only from the angle of Fiqh and the Shariah. Since I am not aware of the constitution and law of South Africa, this question (of MPL) should be decided with the Ulama (of South Africa) and the experts of law.”

Mufti Taqi Saheb further comments in his letter dated 17th January 2004:

“Without minimizing in the least bit the sincerity and efforts of those who laboured in preparing the bill, nevertheless, my opinion is this: There is a need for the Ahl-e-Fatwa Ulama to further study the bill.”

In further refutation of the blatant LIE of which the Natal Jamiat is guilty, Hadhrat Mufti Taqi Saheb states in his letter:

“Before giving the draft bill finality (i.e. for presentation to parliament), it should be presented to the reliable and authoritative Ahl-e-Fatwa and the changes made in it should be accepted wholeheartedly. No stone should be left unturned in order to make the draft bill conform with all the demands of the Shariah and to make it unambiguous. For achieving these aims if there is a delay in presenting the draft bill to parliament, then such delay should be tolerable (i.e. accepted).”

From this most recent letter of Hadhrat Mufti Taqi Saheb, it is quite manifest that he has not

made any “clause by clause analysis” nor has he concurred with every clause in the MPL Bill of Kufr, nor has he claimed that the bill currently with the Minister of Justice fully complies with the Shariah.

On the contrary, Hadhrat Mufti Taqi Saheb repeatedly emphasises that the bill should be studied by the Ulama and any consequential action and decision should be by the Ittifaq (unanimity) of the Ulama. Hence he states:

“The government of South Africa had invited the Muslims (of South Africa) to prepare a bill of Muslim Personal Law. Hence, the Ulama Council of there (i.e. of South Africa), began the work of preparing this bill. The Ulama from there also sought my opinion. I welcomed this plan, but at the same time I advised that this bill should be prepared with the consultation and unanimity (ittifaq) of the Ahl-e-Fatwa Ulama.”

Hadhrat Mufti Taqi Saheb has several times clarified that he is not fully aware and cognizant with the situation prevailing in South Africa, neither with the country’s constitution nor with the full contents of the MPL bill. He states with clarity that he had superficially attended to this issue and that the final decision should be made by the Ulama in South Africa. In direct contradiction, the Natal Jamiat has made the audacious and false claim that Mufti Taqi Saheb has made a “clause by clause analysis” and that he has found the bill fully compliant with the Shariah. The deceit of the Jamiat should now be clear and conspicuous.

MUFTI TAQI AND POLYGAMY

On the question of polygamy which the South African Bill of Kufr regulates with the ultimate aim of outlawing this lawful Islamic practice, Hadhrat Mufti Taqi Saheb wrote in refutation of the self-same kufr proposal which the Pakistani MPL bill had proposed:

“Many Ambiyaa (alayhis salaam), the majority of the Sa-haabah, the Khulafa-e-Raashideen, numerous Taabi-

een, Aimmah Mujtahideen and heroes of our history practised polygamy.”

The above comment is simply one of the proofs which Mufti Taqi Saheb presented in his book to substantiate the validity of polygamy. He presented his arguments in opposition to the MPL proposal to regulate polygamy with the aim of ultimately abolishing it.

Although Hadhrat Mufti Taqi Uthmaani Saheb is not in principle opposed to a Muslim Personal Law bill, he does not advocate tampering with the Shariah. He does not advise interpolation and mutilation of the Shariah – an exercise of which the Project Committee is guilty. Against such interpolation and change, and in its refutation, Hadhrat Mufti Taqi had written a book, “OUR FAMILY LAWS”. Insha’ Allah, in our next special edition of Al-Haq, we shall discuss more fully, the views and stand of Hadhrat Mufti Taqi Saheb. His principle shall also be examined in the light of the prevalent situation of South Africa and the implications relevant to the constitution of the country. For the present we reiterate with emphasis that the current MPL bill is a Bill of Kufr irrespective of Hadhrat Mufti Taqi’s disagreement with this epithet and designation.

QUESTIONS AND ANSWERS

Q. Word is going around that Hadhrat Mufti Taqi Saheb has made the necessary changes to the MPL bill to make it fully compliant with the Shariah. There is now no reason for opposing it. Please comment on this claim.

A. The claim is false. Our explanation appears on page 13. On the 28th January 2004 the Jamiatul Ulama (Kwazulu-Natal), in a letter addressed to its members claimed that Mufti Taqi Saheb had made a “clause by clause analysis” of the MPL bill and that it is now 100% ‘Shariah Compliant’. Yet in a letter dated 17th January 2004, Hadhrat Mufti Taqi Saheb (a letter faxed to various individuals), made it abundantly clear that he is substantially unaware of the contents of the bill as well as of the constitution and law of South Africa. Extracts of his letter appear elsewhere in this issue of Al-Haq. From this conflict, the degree of deceit of the pro-MPL clique should be conspicuous. Furthermore, Maulana Abbaas Ali Jeena Saheb states very clearly in one of his letters that the bill contains serious flaws and that “certain provisions of the bill cannot be accepted”. He further emphasises the need to ‘insist’ to the Minister of Justice that these provisions are unacceptable, yet Maulana Jeena Saheb is the sole Maulana and a senior member serving on the Project Committee which has authored the bill.

Q. We are hearing that Mufti Taqi Saheb has issued a 50 page booklet in support of the MPL bill. Is this booklet available in South Africa?

A. The MPL bill is a South Africa concern. If Mufti Taqi Saheb has written any such booklet in support of MPL, the clique responsible for this bill would have crowed from the rooftops and would have flooded the market with the booklet. The truth of this ‘booklet’ is that it is another piece of false disinformation which has become a salient feature of the pro-MPL votaries. Mufti Taqi Saheb has not written any booklet in favour of MPL. What we can, however, say with certitude is that some time ago, he had written a 150 page book in refutation of MPL in Pakistan. He wrote that laudable book under the instructions of his illustrious father, Hadhrat Mufti Muhammad Shafi (rahmatullah alayh). In that book, he fully vindicates the stand of Al-Haq although Al-Haq had not existed at that time. The only thing Mufti Taqi Saheb has recently prepared is an 8 page letter in which he gives advice to both sides in the MPL conflict. He believes that if a bill which conforms with the Shariah can be hammered out, then the MPL exercise is beneficial. We have published extracts of his letter in this issue.

Q. If the Ulama Council of South Africa accepts the MPL bill as complying with the Shariah, will the other Ulama comply?

A. UUCSA does not represent all the Ulama of South Africa. The MPL bill will be rejected

if it is unacceptable to Allah’s Shariah. No one can impose kufr and baatil on us and on the Muslim community. It is essential to understand that UUCSA neither represents the Ulama of South Africa nor the whole Muslim community. It should understand this fact well and not attempt to create the impression that it is the voice of the South African Muslim Ummah and of the Ulama of South Africa.

Q. Those who favour MPL say that if the bill is rejected then the secular law of the country will automatically apply to Muslims. In such an event if marriages are registered either by “civil Marriage” or “anti-Nuptial Contract”, then the law will:

a) Not allow a second wife at all, for it

CLARIFICATION
It is essential to make one important clarification in order to dispel the idea that Hadhrat Mufti Taqi Uthmaani Saheb is the final word in acceptance or rejection of the MPL bill in South Africa. The bill will not be accepted by the Ulama of South Africa even if Hadhrat Mufti Taqi Saheb says this it is 100% compliant with the Shariah. The bill will be examined by the Ulama of South Africa and accepted or rejected on the basis of the Shariah as we determine. And, this is also the view of Hadhrat Mufti Taqi Saheb.

will be bigamy.

b) Distribute the interstate estate according to South Africa law, i.e. interstate succession act.

c) Grant custody according to South Africa law.

A. This argument is misleading and designed to confuse simple people. In response to (a), we say: There is no automatic application of the secular law on the marital affairs of Muslims in South Africa. Presently, there is no MPL governing us, yet the law of the country does not apply to us in the matter of our Nikah, Talaaq, etc. The law will apply only by the voluntary and self-imposition of an individual Muslim. If any Muslim for some reason or the other considers it necessary to have his marriage registered for gaining legal recognition, he may opt for the anti-nuptial contract which excludes the accrual clause. His marriage is then legally recognized. If he wishes to enter into a second Nikah, he is perfectly free to do so without the bigamy bogey claimed by the MPL clique. He only has to refrain from attempting to get his second Nikah legalized in terms of the law. His first marriage will be recognized by the law while his second Nikah will not be regarded legal by the law. But by

Allah the Nikah is legal and valid, and there is no bigamy charge as is being claimed.

In response to (b), we say: Every Muslim is required to leave an Islamic Will. This is his Waajib duty. If a Muslim refrains from Salaat, Saum, etc., etc., and from drawing up an Islamic Will, it will be entirely his fault and his sin. The Ulama should embark on massive Ta’leem programmes instead of squandering their time and the money of the community on these futile, destructive MPL exercises, conferences and workshop meetings, picnics and parties. Muslims should be educated in their duties and obligations. If, inspite of having educated them, they ignore their obligation of drawing up Islamic Wills, they themselves are responsible for such failure, not us. And, for the sake of the isolated interstate case, the Shariah cannot be changed and Muslims be subjected to fines and imprisonment for second marriages. The MPL clique is the last to comment on the bigamy issue. They themselves have incorporated in their kufr bill a R20,000 fine for Qur’aanic Bigamy.

Furthermore, MPL makes absolutely no provision for Islamic Inheritance. The Shariah’s Laws of Meeraath will not apply to the estate of an interstate. Even under MPL, a Muslim who dies without a will, is still the victim of the country’s law applicable to interstates. The law will not say: “Go, and distribute his estate in terms of your Shariah.” Where in the MPL bill does it say that if a Muslim dies interstate, his estate will be distributed in accordance with the Shariah? This is another grossly misleading claim of the MPL clique.

In response to (c), we say: The final say in the matter of custody of minor children, whether under the existing secular law or whether under a future MPL secular law, will be the interpretation of the secular court. The basis of custody as MPL interpret what is in the best interests and welfare of the child, not the Shariah.

“The best interests and welfare of the child” has widely divergent meanings in the two opposing systems—the system of Allah’s Shariah and the godless system of the secular law. We state without fear of contradiction that the secular court, even if MPL is accepted, will not award custody to the father when the boy child is 7 years old and the girl 10 years old. The secular court under MPL will not uphold the Shariah’s system and order of guardianship. It is this type of false claim which confuses and misleads simple and unwary people. The idea is peddled that if there is no MPL, then the secular system will apply, and if there is MPL, the Shariah system will apply. This is palpably false and misleading as the Ulama know, but the unwary Muslims in the street are kept in the dark. In all cases the courts are obliged to award custody and guardianship in terms of the secular law and in the light of the constitution and on the basis of what western culture understands is the best interest and

(Continued on page 15)

QUESTIONS AND ANSWERS

(Continued from page 14)

welfare of the child. While some 'best interest' of the child is necessary according to the court, it is haraam according to the Shariah. The MPL clique should not attempt to pull wool over the eyes of the community by such misleading arguments and false claims.

Q. It is said that if there is no MPL, the secular courts will consider all the claims of the plaintiff and rule without any consideration of the Shariah. The anti-Nuptial contract will only provide for the independence of the matrimonial property and any other agreements provided they are not in conflict with the constitution. Please comment.

A. Plain drivel calculated to confuse and mislead. Firstly the MPL clique should not speak of "provided they are not in conflict with the constitution". They have no right to raise this bogey. They are dishonest to the core in making the 'constitution' averment because their entire MPL bill is an attempt to make the Immutable Shariah of Allah Ta'ala compliant with the constitution. They have descended to ridiculous levels of interpretations in their insane desire to make the Shariah compatible with the constitution and the laws of the country. Thus, changing the laws of the Qur'aan and Sunnah preponderates the MPL bill.

Secondly, the MPL bill does not oblige the courts to take into consideration the Shariah when there is a conflict with the constitution. Thus, if the plaintiff's claim are in accordance with the law compliant with the principles of the constitution, in line with the demands of the gender equality mob, and satisfying to the western interpretation of the welfare and interests of minors, etc., etc., then the Shariah or consideration of the Shariah stands not a ghost of a chance of being accepted regardless of MPL being on the statute book. The MPL lobby may perhaps succeed in misleading simpletons by this misleading and deceitful argument. It will not achieve its aim in convincing men of intelligence. Thirdly, when a Muslim is constrained by circumstances or merely by his desire to opt for anti-nuptial contract, he does so with the intention of assuring "the independence of the matrimonial property" and for retaining his right to have his estate distributed in terms of the Shariah's law. There is absolutely no merit in the argument of the pro-MPL clique on this score.

Q. One Maulana says that he does not understand this whole hue and cry over the MPL bill because it is optional. Whoever wishes to join and derive the advantages of this bill, is free to enter the process, and whoever is averse to it, will not be bound by its provisions. Please comment on this claim.

A. Assuming that what the Maulana Saheb said regarding the MPL proposed law being 'optional' is correct, then too we say that it is our first and foremost business and obligation to send up a hue and cry against a measure which interferes with Allah's Law, which changes the Shariah, which places restrictions on the unrestricted laws of the Qur'aan and Sunnah, and which attempts to bend the Shariah into submission of the godless constitution. Safeguarding the Deen and the Shariah of Islam is our obligation. This is the first and prior Fardh duty of the Ulama. We shall raise a 'hue and cry' in the same way that our Akaabir had raised a hue and cry against MPL in India and Pakistan countrywide. And, Hadhrat Mufti

Taqi Saheb was an active participant in the hue and cry to defend the Shariah. But today his name is being misused by the ghair muqallids and the modernists to eke out capital for the South African brand of MPL which is almost identical to the Indian brand of MPL. In fact, the Project Committee has shamelessly cribbed from the Indian brand MPL – a brand which was brewed some 70 years ago in British India. The MPL clique is truly retrogressive in even worldly matters. Its incompetency and lack of lustre can be gauged from its cribbing and copying from obsolete exercises of semi-medieval times—the times of colonialism.

The claim that MPL is optional is false. Either the Maulana Saheb is being dishonest in his claim or he has not understood the clauses of the bill or he has been misled by someone in the Project Committee. We have discussed this issue elsewhere in this issue of Al-Haq. To gain exemption from the provisions of this kufr bill, one has to apply in a prescribed form within twelve months to be excluded from the yoke of this bill. 99.999% of the public is ignorant of this hidden provision just as this Maulana Saheb is unaware. By default, the MPL kufr will automatically apply to the overwhelming majority of Muslims should this measure become law. However, for the consolation of Muslims we can assure them that should this bill of kufr be accepted, this iniquitous provision in particular, will be challenged in the constitutional court. If Allah wills, it will be struck down.

Q. Without MPL law Muslim marriages will not be recognized. What answer is there for this?

A. There is no imperative need, neither secular nor Shar'i for our marriages to gain legal recognition. For all practical purposes the Islamic Nikah Certificate is accepted by the secular authorities as valid proof of marriage. There is no social stigma in the absence of legal recognition. Religious recognition is more than adequate for giving the marriage a sanctimonious air. The changing secular laws are increasingly considering the rights over minor children of even unmarried fathers. We have lived our lives out in this country and so have our fathers and grandfathers without legal recognition for our marriages, but we did not suffer adverse effects. In fact, in some ways, the non-recognition has proved beneficial. Then, there is an option for those who wish to gain legal recognition. Simply opt for anti-nuptial contract which excludes the accrual clause, and prepare an Islamic will. All your problems are solved without the need for an MPL law which interferes with the Divine Law of the Deen.

TAHREEF-E-SHARIAT

The primary issue in the debate surrounding the MPL bill is not the question of recognition or non-recognition of Muslim marriages. This question is for the moment of secondary or tertiary importance. It is a debatable question in which opinion has scope for operating. The primary concern is Tahreef-e-Shariat.

Tahreef-e-Shariat means changing and altering the divine immutable Shariah of Islam – the Shariah as it has been transmitted down the centuries by way of reliable and authoritative narration. The questions pertaining to recognition of Muslim marriages, people dying interstate, custody, etc., take backseat in the presence of the fundamental issue of Tahreef-e-Shariat.

The main charge of the anti-MPL Ulama is that the MPL bill alters and tampers with the Shariah. The MPL clique should concentrate on this charge and refrain from kicking up dust to create smokescreens to conceal the Tahreef-e-Shariat which is being effective under guise of MPL.

EXAMPLES

Among the acts of Tahreef are the following:

- 1) Nikah in certain cases is criminalized in spite of Nikah being a sacred union allowed by the Shariah in the cases prohibited or restricted by MPL provisions. A Muslim adult of under 18 is not permitted by MPL to enter into the holy union of Nikah without the consent of the non-Muslim minister. Yet, the Qur'aan and Sunnah not only allows such marriages, but exhorts that as soon as children attain buloogh (15 years), especially girls, they should be married.

This Shar'i permissibility and exhortation are severely restricted by MPL and the Nikah becomes a criminal offence. This is a perfect example of Tahreef-e-Shariat.

- 2) Polygamy is permissible in Islam. The Shariah places no legal constraints in marrying a second, third and fourth wife. In fact, polygamy in the early Islamic societies was a norm rather than an exception. Western influence has made polygamy appear abominable, made it an embarrassing exception and substituted it with wholesale illicit relationships.

MPL severely restricts Qur'aanic polygamy and criminalizes such Nikahs. In fact, it is treated with such abhorrence that a man can be fined R20,000 or jailed for a number of

TAHREEF-E-SHARIAT

years.

This is the most glaring example of Tahreef-e-Shariat.

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OUR SENIORS AND MPL

In a letter to a Mufti Sahib, Maulana Abbaas Ali Jeena Saheb states:

"The recognition of our marriages is something our buzragaan-e-deen and Muslim organisations have been trying for as long as I know. Even in the time of Hadhrat Mufti Sanjalvi Saheb approaches were made to the Government."

Although the "Buzragaan-e-Deen" had made approaches for the recognition of Muslim marriages, they at no stage in their lives were instruments of Tahreef-e-Shariat. Their moves to get Muslim marriages legally recognized by the government did not entail criminalizing Nikah, placing restrictions on polygamy and the imposition of monetary fines and imprisonment.

Since Maulana Abbaas Jeena Saheb implies that he has knowledge of the attempts of the Buzragaan-e-Deen, he should provide further details of such attempts to enable us to see if they had at any stage even suggested any alteration to any mas'alah of the Shariah.

Let it be well understood that the senior Ulama of decades ago who had regarded recognition beneficial, were never involved in the un-Islamic and haraam activities in which the MPL committee is indulging. Tahreef-e-Shariat never featured in their attempts to get Muslim marriages legally recognized.

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- 3) If a man wishes to terminate his civil marriage system in order to enable him to draw up an Islamic will, MPL prevents this perfectly legitimate and Islamic act. MPL stipulates that the secular court should not annul the civil contract as long as it is not satisfied that the husband has issued Talaaq to his wife and ended his Nikah. This is a cruel specimen of Tahreef-e-Shariat.
- 4) A non-Muslim court is given the final say in Islamic affairs. The provision of Muslim assessors does not rectify the crime of Tahreef-e-Shariat in this matter.

DUTY?

In his letter, Maulana Abbaas Ali Jeena says:
"I did my duty as a member of the project committee to the best of my ability."

The Maulana Saheb should understand that his first allegiance and duty are to the Deen of Allah Ta'ala, not to the project committee whose primary function is Tahreef-e-Shariat. The project committee has no Shar'i standing. The Maulana's first and foremost Waajib obligation was and is to resolutely oppose the Tahreef which the project committee has incorporated into the MPL bill, and if he feels that he cannot make headway with the other members of the committee, then it is his duty to resign and dissociate from the project committee's MPL bill.

It was a gross dereliction of Shar'i duty for Maulana Jeena Saheb to have been a party to the submission of the iniquitous bill to the Minister of Justice for his approval.

It is clear that Maulana Jeena Saheb has grossly failed to understand the mess in which he has landed himself. He is in a quagmire, and only a bold and honest attempt motivated by Fear for Allah Ta'ala can extricate him from the baatil MPL snare. May Allah Ta'ala protect our Imaan. Aameen.

THE PROJECTS COMMITTEE AND MUFTI TAQI

The Project Committee responsible for the MPL Bill of Kufr, using Maulana Abbaas Ali Jeena Saheb as its 'religious' front and outer façade of Islam, is trying its very best to convince the Muslim community of the viability, credibility and Islamic acceptability of the haraam bill by misusing the name of Hadhrat Mufti Taqi Uthmaani Saheb. With regard to the MPL exercise, some project committee members convey the impression that Hadhrat Mufti Taqi Saheb is their Imaam to whom they have offered their fullest allegiance. The idea is deceptively and dishonestly conveyed that every aspect of the kufr bill is under the direct supervision of Mufti Taqi Saheb and that he has ruled that the Bill of Kufr is 100% compliant with the Shariah. Nothing is further from the truth in this context.

MUFTI TAQI'S ADVICE

The claims which the MPL clique disseminates regarding Mufti Taqi's participation in the S.A. MPL exercise are blatantly false. In his most recent 8 page letter he clearly stated his un-

wareness of the contents of the bill and the law of the country.

In his 8 page letter, Mufti Taqi Saheb emphasised that the MPL issue should be resolved with the consultation and unanimity of the Ulama of South Africa. In his letter he reiterates this emphasis four times. Thus, he says:

"But along with this, I had said that this bill should be prepared with consultation and unanimity of the Ahl-e-Fatwa Ulama of the country."

"I had also requested that these issues should be placed in front of the Ulama over there (in South Africa) and then the draft bill should be given its final form."

"Since I am not aware of the constitution and law of South Africa, therefore, this question (of MPL) should be jointly decided by the Ulama (of South Africa) and the experts of law (of South Africa)."

"The Ahl-e-Fatwa Ulama should reflect and propose changes."

The Authors of the Bill

Elsewhere on this page appears Mufti Taqi's advice on the MPL bill. He emphasises that the MPL issue should be planned and finalized by the Ulama of South Africa. However, instead of heeding his advice which in reality is a directive to those who cite his name in support of their MPL exercises, we have the scenario of the Project Committee which is the very negation of that Mufti Taqi Saheb advocates. The difference between the Ahl-e-Fatwa Ulama and the Project Committee members is like the difference between heaven and hell.

THE PROJECT COMMITTEE

The Project Committee which has authored and finalized the MPL bill consists of the following members:

Judge M. S. Navsa, Sheik M. F. Gamieldeen, Maulana Abbaas Ali Jeena, Professor N. Moosa, M. S Omar, Dr. R. Salojee and Miss Z. Seedat.

This committee consisting of modernists, liberals, ghair muqallids, females and one Molvi Saheb, has assumed on itself the responsibility and liability to dictate to the Ummah of South Africa and to impose on the Muslim community a measure which the overwhelming majority of Ulama and Muftis have outrightly rejected as being in

conflict with the Shariah. Yet, some of the members of this grossly unqualified and Islamically incompetent committee misuses the name of Mufti Taqi Saheb to create the impression that the Ulama of South Africa are in support of this bill.

Mufti taqi Saheb emphasises and reiterates that this issue should be finalized with the consultation and unanimity of the Ahl-e-Fatwa Ulama, not with the unanimity and consultation of the committee members who possess absolutely no Islamic qualifications, besides the solitary Maulana Saheb who has been overwhelmed by the deluge of liberalism and ghair muqallidism which preponderates the project committee.

This committee, especially, Mr. M. S. Omar and Maulana Jeena Saheb, should understand well that they will not be making any headway with their pet kufr bill by using the name of Mufti Taqi Saheb as a subterfuge.

A BIZARRE DISASTER

The Muslim community of South Africa is confronted with a bizarre phenomenon. A committee of 8 liberals and ghair muqallids, westerners and Islamically unqualified personnel has prepared a bill which it terms 100%

Shariah compliant, for hoisting on the community in the name of Islam. Can such a committee decide and dictate to Muslims and impose on us a measure which stands opposed to the immutable Shariah of Islam? It is indeed an absolute disaster, but blinkers have been sealed onto the eyes of the Maulana Saheb whose foremost duty was to serve the Deen, not the Project Committee "to the best of his ability".